

FEDERAL EXECUTIVE SERVICE

HEARING
BEFORE THE
COMMITTEE ON
POST OFFICE AND CIVIL SERVICE
UNITED STATES SENATE
NINETY-SECOND CONGRESS
FIRST SESSION
ON
S. 1682

A BILL TO AMEND TITLE 5, UNITED STATES CODE, TO ESTABLISH
AND GOVERN THE FEDERAL EXECUTIVE SERVICE,
AND FOR OTHER PURPOSES

MAY 10, 1971

Printed for the use of the
Committee on Post Office and Civil Service



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1972

62-557 O

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

GALE W. MCGEE, Wyoming, <i>Chairman</i>	
JENNINGS RANDOLPH, West Virginia	HIRAM L. FONG, Hawaii
QUENTIN N. BURDICK, North Dakota	J. CALEB BOGGS, Delaware
ERNEST F. HOLLINGS, South Carolina	TED STEVENS, Alaska
FRANK E. MOSS, Utah	HENRY BELLMON, Oklahoma

DAVID MINTON, *Staff Director and Counsel*
ROD CROWLIE, *Associate Staff Director*
CLYDE S. DUPONT, *Minority Counsel*
RICHARD G. FULLER, *Professional Staff Member*
DAN DOHERTY, *Professional Staff Member*

(II)

CONTENTS

	Page
Text of S. 1682-----	2
WITNESS	
Hampton, Hon. Robert E., Chairman, U.S. Civil Service Commission; accompanied by Seymour Berlin, Director, Bureau of Executive Man- power, and Commissioner Ludwig Andolsek-----	37
SUBMISSIONS FOR THE RECORD	
Number and nature of present supergrade authorities (as of March 31, 1971) -----	55
Proposed exclusions from FES: Agency and number of positions (as of June 30, 1970)-----	61
Letter to Chairman Hampton from Senator McGee, dated June 28, 1971, additional questions pertaining to S. 1682-----	68
Response to previous letter-----	72
Letter to Senator McGee from William E. Shaklee, president, Organization of Professional Employees of the U.S. Department of Agriculture; in support of S. 1682-----	85

(III)

FEDERAL EXECUTIVE SERVICE

MONDAY, MAY 10, 1971

U.S. SENATE,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m., in room 6202, New Senate Office Building, Hon. Gale W. McGee (chairman of the committee) presiding.

Present: Senators McGee, Fong, Bellmon, and Stevens.

Staff members present: David Minton, staff director and counsel; Clyde S. DuPont, minority counsel; Richard G. Fuller, and Dan Doherty, professional staff members.

The CHAIRMAN. The committee will come to order.

This hearing is convened so that the Committee on Post Office and Civil Service may hear testimony on S. 1682.

This is an administration bill introduced by Senator Fong and myself to establish and govern the Federal Executive Service.

I will place a copy of S. 1682 in the record at this point.

(The bill follows:)

(1)

92^d CONGRESS
1st SESSION

S. 1682

IN THE SENATE OF THE UNITED STATES

APRIL 29, 1971

Mr. FONG (for himself and Mr. McGEE) introduced the following bill; which was read twice and referred to the Committee on Post Office and Civil Service

A BILL

To amend title 5, United States Code, to establish and govern the Federal Executive Service, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That title 5, United States Code, is amended as follows:

4 (1) Section 1305 is amended by inserting "3143 (c),"
5 immediately after "3105,".

6 (2) Section 1308 is amended by inserting the following
7 new subsection after subsection (e) :

8 "(f) (1) The Commission shall make an annual steward-
9 ship report to Congress on the Federal Executive Service.
10 The stewardship report shall be submitted before April 1 of

II

1 each year and shall include comprehensive information for
2 each agency in which members of the Federal Executive
3 Service are serving and for the Government-wide operation of
4 the Service showing—

5 “(A) the current authorized number of appoint-
6 ments in the Federal Executive Service and the pro-
7 jected number of executive appointments to be author-
8 ized in the next fiscal year;

9 “(B) the current authorized ratios of career to non-
10 career appointments in the Federal Executive Service
11 and the projected ratios to be authorized in the next
12 fiscal year;

13 “(C) any adjustment in the number of executive
14 appointments or the ratios made under section 3134 (c)
15 of this title with the reasons therefor; and

16 “(D) the current executive pay average established
17 under section 3139 (c) of this title, any exceptions to the
18 executive pay average approved by the Commission un-
19 der section 3139 (b) of this title with the reasons there-
20 for, and the projected executive pay average to be
21 authorized for the next fiscal year.

22 In addition, the stewardship report shall include such other
23 information on the overall program for the management of
24 the Federal Executive Service as will enable Congress to

1 maintain an adequate oversight of the Federal Executive
2 Service.

3 “(2) The projected number of executive appointments,
4 the projected ratios of career to noncareer appointments, and
5 the projected executive pay average reported under para-
6 graph (1) of this subsection are effective ninety calendar
7 days after the submission of the stewardship report.”

8 (3) Chapter 31 is amended—

9 (A) By amending the chapter analysis to read as
10 follows:

11 **“Chapter 31—AUTHORITY FOR EMPLOYMENT**

“SUBCHAPTER I—EMPLOYMENT AUTHORITIES

“Sec.

“3101. General authority to employ.

“3102. Employment of readers for blind employees.

“3103. Employment at seat of Government only for services rendered.

“3104. [Repealed.]

“3105. Appointment of hearing examiners.

“3106. Employment of attorneys; restrictions.

“3107. Employment of publicity experts; restrictions.

“3108. Employment of detective agencies; restrictions.

“3109. Employment of experts and consultants; temporary or inter-
mittent.

“3110. Employment of relatives; restrictions.

“SUBCHAPTER II—THE FEDERAL EXECUTIVE SERVICE

“3131. Purpose.

“3132. Definitions.

“3133. The Federal Executive Service.

“3134. Authorization of executive appointments and ratios.

“3135. General authority to appoint executives; characteristics of career
and noncareer appointments.

“3136. Career appointments.

“3137. Employment agreements.

“3138. Qualifications Boards.

“3139. Pay.

“3140. Continued employment guarantees; separation benefits.

“3141. Report to Congress.

“3142. Regulations.

“3143. Executive management outside the Federal Executive Service.”

1 (B) By inserting the following immediately be-
2 fore section 3101:

3 "SUBCHAPTER I—EMPLOYMENT
4 AUTHORITIES".

5 (C) By striking out section 3104.

6 (D) By amending section 3109 by striking out
7 "5332" and inserting "3139" in place thereof.

8 (E) By inserting the following new subchapter
9 immediately after section 3110:

10 "SUBCHAPTER II—THE FEDERAL EXECUTIVE
11 SERVICE

12 "§ 3131. Purpose

13 "It is the purpose of this subchapter to establish and
14 provide for the administration of the Federal Executive
15 Service. The Federal Executive Service is established to in-
16 sure that executive leadership is of the highest quality and
17 is responsive to the needs, policies, and goals of the Nation
18 it serves. The Federal Executive Service shall be adminis-
19 tered to accomplish the following purposes—

20 "(1) to attract, recruit, and provide for the selec-
21 tion of the best executive talent available with assurances
22 of prestige and recognition to encourage continuity of
23 service;

1 “(2) to authorize each agency head to fix the pay
2 and duty assignments of the executives in his agency as
3 will best advance the program responsibilities of that
4 agency;

5 “(3) to train, develop the careers of, and motivate
6 the members of the Federal Executive Service so as to
7 maintain the high degree of qualification essential for
8 executive leadership;

9 “(4) to make effective a separate merit system for
10 career executives with practices and procedures which,
11 while interrelated with the regular competitive service,
12 are expressly attuned to the development and utiliza-
13 tion of executive leadership;

14 “(5) to insure the continuous quality of executive
15 service essential to carry out the policies of Congress,
16 the President, and the heads of agencies, by open and
17 public review of the qualifications of each career execu-
18 tive and the periodic reevaluation of his qualifications
19 for retention in the Federal Executive Service; and

20 “(6) to recognize the need for a limited number
21 of noncareer executives whose selection and retention
22 by an agency head or key political official is based on
23 political agreement, program philosophy, or personal
24 confidence, or whose tenure is of a noncareer nature.

1. "§ 3132. Definitions

2 "For the purpose of this subchapter, except section
3 3143—

4 "(1) 'agency' means—

5 "(A) an executive agency; and

6 "(B) a military department;

7 but does not include—

8 "(i) the General Accounting Office;

9 "(ii) the Peace Corps;

10 "(iii) the Atomic Energy Commission;

11 "(iv) the Central Intelligence Agency;

12 "(v) the Tennessee Valley Authority;

13 "(vi) the National Science Foundation;

14 "(vii) the Council of Economic Advisers;

15 "(viii) the Federal Deposit Insurance Corpo-
16 ration;

17 "(ix) the Federal Reserve System;

18 "(x) the United States Postal Service;

19 "(xi) the Panama Canal Company;

20 "(xii) the Canal Zone Government;

21 "(xiii) the Office of the Comptroller of the Cur-
22 rency or the Office of the Assistant Secretary (In-
23 ternational Affairs), Department of the Treasury;

24 or

1 “(xiv) the Federal Bureau of Investigation,
2 Department of Justice; and

3 “(2) ‘executive’ means an employee of an agency
4 whose pay is fixed under section 3139 of this title and not
5 under the General Schedule in section 5332 (a) of this title
6 nor under the Executive Schedule in subchapter II of chap-
7 ter 53 of this title, but does not include—

8 “(A) a United States Attorney or Assistant United
9 States Attorney in the Department of Justice;

10 “(B) an employee paid from—

11 “(i) appropriations for the Executive Office
12 of the President under the heading ‘Special Proj-
13 ects’; or

14 “(ii) funds appropriated to the President under
15 the heading ‘Emergency Fund for the President’ by
16 the Treasury, Post Office, and Executive Office Ap-
17 propriation Act, 1971, or a later statute making
18 appropriations for the same purpose;

19 “(C) a Foreign Service information officer in the
20 United States Information Agency;

21 “(D) a hearing examiner appointed under section
22 3105 of this title;

23 “(E) an employee in the Foreign Service of the
24 United States paid under chapter 41 of title 22;

25 “(F) a physician, dentist, nurse, or other employee

1 in the Department of Medicine and Surgery, Veterans
2 Administration, paid under chapter 73 of title 38;

3 “(G) an expert or consultant employed tempo-
4 rarily or intermittently under section 3109 of this title;
5 or

6 “(H) such other employee or group of employees
7 as may be excluded by regulations of the President in
8 the interest of national security or foreign relations, or
9 on the basis of a finding that the duties of the employee
10 or group involve the performance of unique functions
11 not readily adaptable to the purposes of this subchapter.

12 **“§ 3133. The Federal Executive Service**

13 “The Federal Executive Service consists of the execu-
14 tives the Civil Service Commission authorizes agencies to ap-
15 point under section 3134 of this title. The executives the
16 Commission authorizes agencies to appoint under section
17 3134 are members of the Federal Executive Service.

18 **“§ 3134. Authorization of executive appointments and**
19 **ratios**

20 “(a) Each agency shall examine its executive man-
21 power needs and submit to the Civil Service Commission, in
22 accordance with regulation prescribed by the Office of Man-
23 agement and Budget and the Civil Service Commission, a
24 written request for authority to appoint a specific number of

1 executives in the agency. A request shall be based on the
2 following factors:

3 (1) the current level of budget and program
4 activity in the agency;

5 (2) the current level of executive staffing in the
6 agency;

7 (3) the anticipated agency program activity and
8 agency budget requests;

9 (4) pending legislation;

10 (5) the level of work to be done in the agency;
11 and

12 (6) such other factors as may be prescribed from
13 time to time by the Office of Management and Budget
14 and the Civil Service Commission.

15 “(b) The request required by subsection (a) of this
16 section shall state the number of executives requested which
17 the agency desires to appoint by career appointments and by
18 noncareer appointments. Within the entire Federal Execu-
19 tive Service there is a ratio of not less than seventy-five
20 career executives to not more than twenty-five noncareer
21 executives. However, within a single agency, and subject
22 to the Government-wide restrictions, the Commission may
23 authorize a ratio of career to noncareer executives as is most
24 appropriate to the needs of the agency.

10

1 “(c) The request required by subsection (a) of this
2 section shall be submitted annually at such time and in such
3 form as the Commission prescribes.

4 “(d) The Commission, after collaboration with the Of-
5 fice of Management and Budget in review of the request of
6 each agency and subject to sections 1308 (f) and 3141 of
7 this title, shall authorize—

8 “(1) the appointment of a specific number of ex-
9 ecutives in the agency; and

10 “(2) a specific ratio of career executives to non-
11 career executives in the agency.

12 “(e) The number of executive appointments and the
13 ratios authorized under subsection (d) of this section may
14 be adjusted by the Commission after collaboration with the
15 Office of Management and Budget during the fiscal year in
16 which they are effective only for emergency purposes that
17 were not anticipated when they were authorized. An adjust-
18 ment in the number of executive appointments under this
19 subsection may not enlarge the Federal Executive Service
20 by more than 1 per centum in a fiscal year. If an adjustment
21 is made under this subsection, the Commission shall include
22 information concerning the adjustment in the next annual
23 stewardship report required under section 1308 (f) (1) of
24 this title.

1 **“§ 3135. General authority to appoint executives; char-**
2 **acteristics of career and noncareer appoint-**
3 **ments**

4 “(a) Within the ratio established by the Civil Service
5 Commission for his agency, the head of an agency may ap-
6 point an executive by either a career or a noncareer appoint-
7 ment. The decision as to whether an appointment will be
8 career or noncareer is exclusively that of the head of the
9 agency based on the following considerations:

10 “(1) A career appointment is made on the basis
11 of merit and fitness under section 3136 of this title and
12 is appropriate for the executive whose tenure is fixed
13 and whose future service is Government oriented.

14 “(2) A noncareer appointment is (A) made on
15 the basis of political agreement, program philosophy,
16 or personal confidence, or (B) made for project service
17 that does not entail a long-term career commitment.

18 “(b) An executive given a career appointment under
19 section 3136 of this title does not serve a probationary or
20 trial period. An executive given a career appointment—

21 “(1) is in the competitive service;

22 “(2) acquires a competitive status by that appoint-
23 ment; and

24 “(3) if he is a preference eligible as defined by
25 section 2108 (3) of this title, is entitled to the benefits

1 of subchapter II of chapter 75 and section 7701 of this
2 title without the completion of a probationary or trial
3 period.

4 “(c) An executive given a noncareer appointment does
5 not serve under an employment agreement and the head of
6 the agency has exclusive authority to determine his quali-
7 fications for the noncareer appointment. An executive given
8 a noncareer appointment—

9 “(1) is not in the competitive service;

10 “(2) does not acquire a competitive status by that
11 appointment;

12 “(3) does not have a fixed tenure; and

13 “(4) serves at the will of the appointing authority
14 without a continued employment guarantee.

15 **“§ 3136. Career appointments**

16 “(a) Each agency shall recruit and select candidates
17 for career appointments in the Federal Executive Service on
18 the basis of merit, capacity, and fitness. The Civil Service
19 Commission shall assist each agency in recruiting and select-
20 ing candidates for career appointments to insure—

21 “(1) that quality candidates having the best talent
22 available are considered; and

23 “(2) that recruitment is carried out on as broad
24 a base as is reasonable and, as nearly as conditions of
25 good administration warrant, extends to qualified indi-

1 viduals both within and outside the civil service as de-
2 fined by section 2101 (1) of this title.

3 “(b) When an agency selects a candidate for career
4 appointment, the name of the candidate together with docu-
5 mentation of his qualifications and of the recruitment effort
6 made shall be submitted to a Qualifications Board estab-
7 lished under section 3138 of this title. Except as provided
8 in subsection (d) of this section, an agency may make a
9 career appointment in the Federal Executive Service only
10 with the prior approval of a Qualifications Board.

11 “(c) An agency may make a career appointment in
12 the Federal Executive Service only by entering into an em-
13 ployment agreement under section 3137 of this title with
14 the executive.

15 “(d) An agency may make a career appointment in
16 the Federal Executive Service without the prior approval
17 of a Qualifications Board when the appointment—

18 “(1) is by transfer from another career appoint-
19 ment in the Federal Executive Service; or

20 “(2) is by a renewal employment agreement made
21 within one year after the expiration of, or the separation
22 of an executive from, a previous employment agreement.

23 **“§ 3137. Employment agreements**

24 “(a) The employment agreement under which an ex-
25 ecutive first enters the Federal Executive Service is an ini-

14

1. tial employment agreement. Each employment agreement
2 after the initial employment agreement is a renewal employ-
3 ment agreement.

4 “(b) An initial employment agreement is for an em-
5 ployment period of three years or such shorter period as is re-
6 quired by the mandatory separation of the executive under
7 section 8335 of this title.

8 “(c) A renewal employment agreement is for an em-
9 ployment period of three years or such shorter period as is
10 required by the mandatory separation of the executive under
11 section 8335 of this title, except when made by reason of
12 transfer from an initial employment agreement in which
13 case it may run only to the date the initial employment
14 agreement would have ended.

15 “(d) An initial or renewal employment agreement
16 shall require the agency to agree—

17 “(1) to assign the executive only to duties and
18 responsibilities properly within the scope and purpose
19 of the Federal Executive Service;

20 “(2) to provide the executive with such training
21 and career development activities as will enhance the
22 proficiency of the executive and promote the program
23 needs of the agency;

24 “(3) not to reduce the pay of the executive during
25 the employment period;

16

15

1 “(4) not to separate the executive during the
2 employment period, except for such cause as will pro-
3 mote the efficiency of the service or on the basis of a
4 finding by the Civil Service Commission under section
5 8337 of this title that he has become disabled;

6 “(5) that the executive, at any time, may resign
7 from the agency, transfer to employment not within the
8 Federal Executive Service, transfer to another appoint-
9 ment in the Federal Executive Service in another
10 agency, or make application for optional retirement
11 under section 8336 of this title or disability retirement
12 under section 8337 and, if eligible therefor, be separated;
13 and

14 “(6) that on the expiration of the employment
15 period, the agency shall enter into a renewal employ-
16 ment agreement with the executive, provide him with
17 continued employment under section 3140 (b) of this
18 title, or separate him for retirement purposes under sec-
19 tion 3140 (a) of this title.

20 “(e) An initial or a renewal employment agreement
21 shall require the executive to agree as follows:

22 “(1) to accept any assignment of duties and responsi-
23 bilities, at any geographical location, that is properly within
24 the scope, and consistent with the purposes, of the Federal
25 Executive Service. However, if the reassignment of an ex-

1 ecutive to a different geographical location would result in
2 undue personal hardship and the agency has no further need
3 for his services as an executive at the place of employment,
4 the agency shall offer him a GS-15 position at the place of
5 employment under the same conditions set out in section
6 3140 (b), (c) of this title and if the executive declines that
7 offer he is, if otherwise eligible, entitled to a discontinued-
8 service annuity or severance pay as provided in section
9 3140 (d) of this title.

10 “(2) To participate in such training and career develop-
11 ment activities as the agency determines will enhance his
12 proficiency and promote the program needs of the agency.

13 **“§ 3138. Qualifications Boards**

14 “(a) The Civil Service Commission shall establish
15 Qualifications Boards which, acting as agents of the Com-
16 mission, shall review the qualifications of candidates for
17 career appointment in the Federal Executive Service and the
18 scope and nature of the recruitment effort made to locate the
19 candidates. A Qualifications Board may approve a candidate
20 for career appointment only when the Board determines that
21 the recruitment effort was consistent with the principles in
22 section 3136 (a) of this title, and that the candidate is one
23 of the most highly qualified candidates considered.

24 “(b) Each Qualifications Board shall be composed of
25 highly qualified experts with the ability to judge the qualifi-

1 cations of the candidates reviewed. The Commission may
2 appoint the members of a Qualifications Board from indi-
3 viduals both within and outside the civil service as defined
4 by section 2101 (1) of this title. A member who is an em-
5 ployee of an executive agency other than the Commission
6 may serve on a reimbursable detail under section 686 of
7 title 31. A member selected from a State or territory or
8 political subdivision thereof, or from the private sector, serves
9 as an expert or consultant and his service may be obtained
10 under section 3109 of this title at a rate of pay not in excess
11 of the daily equivalent that may be paid an executive under
12 section 3139 of this title. The Commission may reimburse
13 the government of the District of Columbia for the services
14 of a member employed by that government.

15 **“§ 3139. Pay**

16 “(a) Subject to subsection (c) of this section, an
17 agency may pay an executive any rate of annual pay it
18 determines to be appropriate that is not less than the sixth
19 rate of GS-15 nor more than the rate for level V of the
20 Executive Schedule.

21 “(b) An agency shall establish the initial rate of pay
22 for each executive, and adjust that rate to a higher rate at
23 any time, in accordance with such factors as—

24 “(1) the value of the executive to the agency;

1 “(2) the duties and responsibilities of the execu-
2 tive; and

3 “(3) the performance of the executive.

4 However, the average rate of pay of all executives within
5 agency may not exceed the executive pay average authorized
6 by the Civil Service Commission in collaboration with the
7 Office of Management and Budget under subsection (c) of
8 this section, except with the prior approval of the Com-
9 mission and when the Commission and the Office of Manage-
10 ment and Budget determine that special executive staffing
11 circumstances justify a higher average rate of pay for that
12 agency.

13 “(c) (1) The Commission shall require each agency to
14 report the rates of pay for each executive in the agency. The
15 Commission shall establish the dollar point which, subject to
16 sections 1308 (f) and 3141 of this title, shall be authorized
17 as the executive pay average for the next fiscal year.

18 “(2) The rate of pay established by an agency for an
19 executive shall be increased automatically by the same per-
20 centage of any increase in the sixth rate of GS-15 provided by
21 or under statute that does not result in the pay of an execu-
22 tive being more than the rate for level V of the Executive
23 Schedule.

3 “(a) When an employment agreement expires and an
4 agency does not offer the executive a renewal employment
5 agreement, or makes such an offer and it is declined by the
6 executive, the agency may separate the executive from the
7 service if he has completed thirty years of service as defined
8 by section 8331 (12) of this title and is otherwise eligible for
9 an annuity under section 8336 of this title.

19 “(c) (1) When an executive accepts the offer required
20 by subsection (b) of this section, previous service in GS-15
21 not used for step increase purposes and all service as a mem-
22 ber of the Federal Executive Service is creditable service
23 and shall be used in determining the step of GS-15 into
24 which he is entitled to be placed. However, if the rate of
25 annual pay he was receiving immediately before his em-

1 ployment agreement expired is greater than the basic pay
2 the agency is required to pay him in GS-15 under this
3 paragraph, he is entitled to basic pay in GS-15 at the rate
4 of annual pay he was receiving immediately before his em-
5 ployment agreement expired (including any increase equiv-
6 alent to any statutory increase in the minimum rate of pay
7 provided by section 3139 (a) of this title) for a period of
8 two years from the effective date of his appointment at grade
9 GS-15, so long as he—

10 “(A) continues in the same agency without a
11 break in service of one workday or more;

12 “(B) is not entitled to a higher rate of basic pay
13 by operation of subchapter III of chapter 53 of this
14 title; and

15 “(C) is not demoted or reassigned (i) for personal
16 cause, (ii) at his request, or (iii) in a reduction in
17 force to lack of funds or curtailment of work.

18 “(2) When the period of saved pay required by para-
19 graph (1) of this subsection expires, the former executive is
20 entitled to:

21 “(A) service credit for periodic step increase pur-
22 poses under section 5335 of this title for previous serv-
23 ice in GS-15 not used for step increase purposes and for
24 all service as a member of the Federal Executive Service;
25 and

1 “(B) placement in the appropriate rate and step of
2 GS-15 on the basis of the total creditable service calcu-
3 lated under subparagraph (a) of this paragraph unless
4 he is given a higher rate and step under subchapter III
5 of chapter 53 of this title and the regulations of the Civil
6 Service Commission prescribed pursuant thereto.

7 “(3) For the purpose of this subsection and section
8 5335 (a) of this title, the work of a former executive while
9 a member of the Federal Executive Service is deemed to
10 have been of an acceptable level of competence, and any in-
11 crease in pay received on entering the Federal Executive
12 Service, or while in the Service, is not an equivalent increase
13 in pay.

14 “(d) When an employment agreement expires and an
15 agency does not offer the executive a renewal employment
16 agreement, an executive who declines the offer required by
17 subsection (b) of this section is entitled to:

18 “(1) A discontinued service annuity under section
19 8336 (d) of this title if he meets all requirements for title
20 to such an annuity. Such an executive who is separated
21 after he declines the offer required by subsection (b) of
22 this section is deemed ‘involuntarily separated from
23 the service’ for the purpose of section 8336 (d) of this
24 title.

25 “(2) Severance pay if he meets all requirements for

1 severance pay under section 5595 of this title. Such an
2 executive who is separated after his declination of the
3 offer required by subsection (b) of this section is deemed
4 'involuntarily separated from the service' for the pur-
5 pose of section 5595 (b) (2) of this title.

6 " (e) When an employment agreement expires and an
7 agency offers the executive a renewal employment agree-
8 ment which he declines and, in addition, he declines the
9 offer of a continuing position in the competitive service in
10 GS-15, the separation of the executive from the agency is
11 not 'involuntary' for the purpose of severance pay under
12 section 5595 (b) (1) of this title or a discontinued service
13 annuity under section 8336 (d) of this title.

14 **"§ 3141. Report to Congress**

15 "The Civil Service Commission shall report the pro-
16 jected number of appointments, the ratios, and the execu-
17 tive pay average to be authorized, together with a full ex-
18 planation thereof, to Congress in the report required by
19 section 1308 (f) of this title. The projected authorizations
20 are effective ninety calendar days after the report is submitted
21 to Congress.

22 **"§ 3142. Regulations**

23 "The Civil Service Commission may prescribe regula-
24 tions necessary to carry out the purposes of this subchapter,
25 except section 3143.

1 **“§ 3143. Executive management outside the Federal Ex-**
2 **ecutive Service**

3 “(a) The government of the District of Columbia and
4 each agency in the judicial or legislative branch in which
5 there are positions the basic pay for which is at an annual
6 rate that is not less than the sixth rate of GS-15 nor more
7 than the rate for level V of the Executive Schedule, and
8 which is not fixed under the General Schedule in section
9 5532 (a) of this title nor under the Executive Schedule in
10 subchapter II of chapter 53 of this title, shall prescribe reg-
11 ulations which establish within the government and the
12 agency a program of executive management as nearly like
13 the program prescribed under this subchapter for the Fed-
14 eral Executive Service as conditions of good administration
15 warrant.

16 “(b) The Civil Service Commission, on request, shall
17 give advice and assistance to the government of the District
18 of Columbia and to each agency which establishes a pro-
19 gram of executive management under subsection (a) of
20 this section. The assistance given by the Commission under
21 this subsection may include the use of a Qualifications Board
22 established under section 3138 of this title and the use of the
23 executive inventory maintained in the Commission.

24 “(c) (1) Each hearing examiner appointed under sec-
25 tion 3105 of this title to a position not under the General

24

1 Schedule in section 5332 of this title is entitled to pay pre-
2 scribed by the Civil Service Commission independently of
3 agency recommendations or ratings in accordance with this
4 subsection.

5 “(2) The Civil Service Commission shall fix the pay of
6 a hearing examiner paid under this subsection at a rate that
7 is not less than the sixth rate for GS-15 nor more than the
8 rate for level V of the Executive Schedule.

9 “(3) The Civil Service Commission shall prescribe
10 regulations necessary to carry out this subsection which shall
11 include—

12 “(A) the bases for determining the rate of pay for
13 each hearing examiner position based on the difficulty
14 and responsibility of work in keeping with the purpose
15 expressed in section 5101 of this title; and

16 “(B) provisions governing the rate for new ap-
17 pointments, the rate on change in position or type of ap-
18 pointment, periodic increases, and pay saving which
19 shall be consistent with sections 5105, 5106, 5333,
20 5334, 5335, and 5337 of this title.

21 “(d) Each agency excluded by section 3132 (1) of this
22 title or which has employees excluded by section 3132 (2)
23 of this title—

24 “(1) is encouraged to adopt such features of the

1 program prescribed under this subchapter as conditions
2 of good administration warrant; and

3 “(2) is entitled, on request, to receive advice and
4 assistance from the Civil Service Commission under sub-
5 section (b) of this section.”

6 (4) Chapter 33 is amended—

7 (A) by amending section 3302—

8 (i) by striking out “and” at the end of para-
9 graph (1);

10 (ii) by striking out the period at the end of
11 paragraph (2) and inserting “; and” in place
12 thereof; and

13 (iii) by inserting the following new paragraph
14 after paragraph (2):

15 “(3) necessary exceptions from sections 2951,
16 3304, 3305, 3306, 3308, 3309, 3311, 3313, 3314,
17 3315, 3315a, 3316, 3317, 3318, 3320, 3321, 3322,
18 3341, and 3361 to carry out subchapter II of chapter
19 31 of this title.”;

20 (B) by striking out sections 3324 and 3325; and

21 (C) by amending items 3324 and 3325 in the
22 analysis to read as follows:

“3324. [Repealed.]

“3325. [Repealed.]”.

26

1 (5) Section 4301 (2) is amended—

2 (A) by striking “or” after subparagraph (D) ;

3 (B) by striking the period after subparagraph (E)

4 and inserting “; or” in place thereof; and

5 (C) by inserting the following new subparagraph

6 after subparagraph (E) :

7 “(F) a member of the Federal Executive or
8 an employee under an agency program of executive
9 management established under section 3143 (a) of
10 this title.”.

11 (6) Chapter 51 is amended—

12 (A) by amending section 5102 (c) (25) to read

13 as follows:

14 “(25) positions for which rates of basic pay are indi-
15 vidually fixed, or expressly authorized to be fixed, by a
16 statute other than this chapter, at or in excess of the max-
17 imum rate for GS-15;”;

18 (B) by amending section 5104—

19 (i) by striking out “18” immediately before
20 the words “grades of difficulty” and inserting “15”
21 in place thereof; and

22 (ii) by striking out paragraphs (16), (17),

23 and (18) ;

24 (C) by striking out section 5108:

1 (D) by amending section 5109—
2 (i) by striking out the subsection designation
3 “(a)”; and
4 (ii) by striking out subsection (b);
5 (E) by striking out section 5114;
6 (F) by amending items 5108 and 5114 in the
7 analysis to read as follows:

“5108. [Repealed.]

“5114. [Repealed.]”; and

8 (G) by amending section 5115 by striking out
9 “sections 5109 and 5114” and inserting “section 5109”
10 in place thereof.

11 (7) Chapter 53 is amended—

12 (A) by amending section 5304 by striking out
13 “chapter 51 of this title” and inserting “chapter 51 and
14 subchapter II of chapter 31 of this title” in place thereof;

15 (B) by amending section 5332 by striking out the
16 references therein to GS-16, GS-17, and GS-18 and the
17 annual rates for those grades;

18 (C) by striking out section 5361;

19 (D) by amending section 5362 by inserting “to
20 positions paid under the General Schedule in section
21 5332 of this title” immediately after “3105 of this title”;

22 (E) by amending section 5363 by striking out “for

1 GS-18" and inserting "that may be paid under section
2 3139 of this title" in place thereof;

3 (F) by amending section 5364 by striking out
4 "equal to the pay rate of a grade and step of the Gen-
5 eral Schedule set forth in section 5332 of this title"
6 and inserting "that is not more than the maximum rate
7 that may be paid under section 3139 of this title" in
8 place thereof; and

9 (G) by amending item 5361 in the analysis to
10 read as follows:

"5361. [Repealed.]".

11 (8) Section 5595 (a) (2) is amended—

12 (A) by amending clause (i) by striking out "for
13 GS-18" and inserting "that may be paid under section
14 3139 of this title" in place thereof; and

15 (B) by amending clause (ii) by inserting "or a
16 member of the Federal Executive Service" immediately
17 before the semicolon.

18 (9) Section 71-54 is amended by—

19 (A) inserting "subchapter II or chapter 31," im-
20 mediately after "In the administration of"; and

21 (B) striking out "sections 305 and 3324" and in-
22 serting "section 305" in place thereof.

23 (10) (A) Chapter 77 is amended by inserting the fol-
24 lowing new section after section 7701:

1 **“§ 7702. Appeals of members of the Federal Executive**
2 **Service and others**

3 “(a) A member of the Federal Executive Service given
4 a career appointment under section 3136 of this title, and an
5 employee under a regulatory program of executive manage-
6 ment established under section 3143 (a) of this title who has
7 a tenure equivalent to a career executive appointed under
8 section 3136 of this title, is entitled to appeal to the Civil
9 Service Commission if he believes his employing agency or
10 the government of the District of Columbia has violated the
11 employment agreement under which he is serving. The execu-
12 tive or employee shall submit the appeal in writing within
13 a reasonable time after the alleged violation of the employ-
14 ment agreement occurs, and is entitled to appeal personally
15 or through a representative under regulations prescribed by
16 the Commission. The Commission, after investigation and
17 consideration of the evidence submitted, shall submit its
18 findings and recommendations to the employing agency or
19 the government of the District of Columbia and shall send
20 copies thereof to the executive or employee and his repre-
21 sentative. The agency or the government shall take the cor-
22 rective action that the Commission finally recommends.

23 “(b) The Civil Service Commission may prescribe
24 regulations necessary to carry out this section.”.

1 (B) The analysis of chapter 77 is amended by inserting
2 the following new item after item 7701:

“7702. Appeals of members of the Federal Executive Service and others.”.

3 SEC. 2. (a) (1) An employee who immediately before
4 the effective date of this Act was serving under a career or
5 career-conditional appointment in a position in the competi-
6 tive service in GS-16, 17, or 18, or who was paid at a rate
7 of GS-16, 17, or 18, or whose pay was fixed by adminis-
8 trative action between the first rate of GS-16 and GS-18,
9 inclusive, and who is not excluded from subchapter II of
10 chapter 31 of title 5, United States Code, by section 3132 of
11 that title, is, at his election, entitled to either—

12 (A) enter into an initial employment agreement
13 under section 3137 of title 5 with, and receive a career
14 appointment in the Federal executive service in, his
15 employing agency without a review of his qualifications.
16 or the approval of his career appointment, by a qualifi-
17 cations board; or

18 (B) continue under the appointment held immedi-
19 ately before the effective date of this Act.

20 (2) (A) An employee who immediately before the ef-
21 fective date of this Act was serving in GS-16, 17, or 18
22 under an expected appointment in a position in schedule C
23 of subpart C or part 213 of title 5 of the Code of Federal
24 Regulations or in a position filled by noncareer executive

31

1 assignment under subpart F of part 305 of title 5 of the
2 Code of Federal Regulations, and who is not excluded from
3 subchapter II of chapter 31 of title 5, United States Code,
4 by section 3132 of that title, is entitled to a noncareer
5 appointment.

6 (B) An excepted employee, other than one covered by
7 subparagraph (A) of this paragraph, who immediately be-
8 fore the effective date of this Act, was serving in GS-16,
9 17, or 18, or who was paid at a rate of GS-16, 17, or 18,
10 or whose pay was fixed by administrative action between
11 the first rate of GS-16 and GS-18, inclusive, at the election
12 of his employing agency may enter into an initial employ-
13 ment agreement under section 3137 of title 5 with, and re-
14 ceive a career appointment in, his employing agency with-
15 out a review of his qualifications, or the approval of his career
16 appointment by, a qualifications board. If an agency does
17 not elect to offer the employee a career appointment, or if
18 the employee declines to accept such an appointment, the
19 agency shall allow the employee to continue to serve under
20 the excepted appointment held immediately before the ef-
21 fective date of this Act without change in tenure or the loss
22 of any employment or job protection benefits.

23 (3) The Civil Service Commission may prescribe regu-
24 lations to carry out the purpose of this subsection. The
25 regulations shall provide a right of appeal to the Commis-

1 sion for an employee who believes his employing agency
2 has violated his rights under this subsection. An agency shall
3 take the corrective action that the Commission finally recom-
4 mends in its decision on an appeal under this subsection.

5 (b) (1) This subsection applies to positions that were
6 in, or paid at a rate of, GS-16, 17, or 18, or the pay for which
7 was fixed by administrative action between the first rate of
8 GS-16 and GS-18, inclusive, immediately prior to the effec-
9 tive date of this Act, the incumbents of which are neither in
10 the Federal executive service nor under an agency program
11 of executive management under section 3143 of title 5,
12 United States Code.

13 (2) (A) On and after the effective date of this Act each
14 agency with authority to fix the pay of a position by adminis-
15 trative action between the first rate of GS-16 and GS-18,
16 inclusive, immediately prior to the effective date of this Act
17 may continue to fix the pay for such a position between the
18 first rate of grade 16 and grade 18, inclusive, of the grade
19 schedule in paragraph (3) of this subsection.

20 (B) On and after the effective date of this Act the
21 Director of the Federal Bureau of Investigation, without
22 regard to any other provision of this Act or other statute,
23 may fix the pay of not to exceed one hundred and forty posi-
24 tions in the Federal Bureau of Investigation at any rate of
25 annual pay he determines to be appropriate that is not less

1 than the sixth rate of GS-15 nor more than the rate for level
2 V of the Executive Schedule.

3 (3) (A) On and after the effective date of this Act the
4 following grade schedule applies to the positions to which
5 this subsection applies, except as provided under paragraph
6 (2) of this subsection:

	ANNUAL RATES AND STEPS								
	1	2	3	4	5	6	7	8	9
Grade:									
16.....	\$28,129	29,067	30,005	30,943	31,881	32,819	33,757	34,695	35,633
17.....	32,546	33,631	34,716	35,801	36,886				
18.....	37,624								

¹ The rate of basic pay for employees at these rates is limited by section 5308 of title 5 of the United States Code, as added by the Federal Pay Comparability Act of 1970, to the rate for level V of the Executive Schedule (as of the date of this salary adjustment, \$36,000).

7 (B) The Civil Service Commission shall prescribe regu-
8 lations necessary to carry out this subsection which shall
9 include provisions governing the rate on change in position
10 or type of appointment, periodic and additional step in-
11 creases, and pay saving which shall be consistent with sec-
12 tions 5105, 5106, 5334, 5335, 5336, and 5337 of title
13 5, United States Code .

14 SEC. 3. (a) (1) Each position in or paid at a rate of,
15 GS-16, GS-17, or GS-18, or the pay for which was fixed by
16 administrative action between the first rate of GS-16 and
17 GS-18, inclusive, immediately before the effective date of this
18 Act is authorized to be continued and to be paid under sec-
19 tion 2 (b) of this Act until brought into the Federal Execu-
20 tive Service under section 1 or 2 of this Act or into an agency
21 program of executive management under section 3143 of

1 title 5, United States Code. On and after the effective date of
2 this Act, this subsection constitutes the only authority for con-
3 tinuing a position covered by this section and all authorities
4 for those positions that existed immediately before the effec-
5 tive date of this Act are repealed, including but not limited to
6 section 1581 of title 10, United States Code; section 208 (g)
7 of the Public Health Service Act, as added by the Act of Au-
8 gust 15, 1950 (64 Stat. 447) , as amended, section 210 (g) of
9 title 42, United States Code, except the reference therein to
10 positions in level II of the Executive Schedule; section 601
11 of the Supplemental Defense Appropriation Act, 1958 (72
12 Stat. 8) , as amended; and section 302 (f) of the Federal
13 Aviation Act of 1958 (72 Stat. 746) , as amended, section
14 1343 (d) of title 49, United States Code.

15 (2) This subsection does not apply to the Federal
16 Bureau of Investigation or the administrative pay-fixing
17 authority provided the Director of that Bureau under sec-
18 tion 2 (b) (2) (B) of this Act.

19 (b) Each agency in the executive, judicial, or legisla-
20 tive branch shall make a report to the Civil Service Com-
21 mission, at such time and in such form as the Commission
22 prescribes, concerning each position in, or paid at a rate of,
23 Grade 16, 17, or 18, or the pay for which is fixed by ad-
24 ministrative action between the first rate of Grade 16 and
25 Grade 18, inclusive, which has not been brought into the

1 Federal Executive Service or into an agency program of
2 executive management, including a statement of the authority
3 that existed for each such position immediately before the
4 effective date of this Act.

5 SEC. 4. The enactment of this Act does not decrease
6 the pay, allowances, compensation, or annuity of any person.

7 SEC. 5. If a provision enacted by this Act is held in-
8 valid, all valid provisions that are severable from the invalid
9 provision remain in effect. If a provision of this Act is held
10 invalid in one or more of its applications, the provision re-
11 mains in effect in all valid applications that are severable
12 from the invalid application or applications.

13 SEC. 6. (a) Except as provided in subsection (b) of
14 this section, this Act shall take effect at the start of the first
15 fiscal year that begins two hundred and seventy days fol-
16 lowing the date of enactment.

17 (b) Section 1 (2) of this Act which requires a steward-
18 ship report to Congress by the Civil Service Commission,
19 and those parts of section 1 (3) of this Act which refer to
20 the stewardship report by the Commission (5 U.S.C. 3141)
21 and require a like report for the government of the District
22 of Columbia and each agency which establishes a regulatory
23 program of executive management (5 U.S.C. 3143), shall
24 take effect ninety days before the start of the first fiscal year
25 that begins two hundred and seventy days following the
26 date of enactment.

The CHAIRMAN. It is my understanding that this measure to abolish the present supergrade system is the result of some years of intensive study on the part of the Civil Service Commission.

In establishing the Federal Executive Service under which certain executives will enter into employment agreements with Federal agencies, the bill represents a sharp break with the past.

It is part of the program announced by the President in his state of the Union message to bring about sweeping reorganization of the executive branch, which leads to the testimony this morning of the Honorable Robert E. Hampton, Chairman of the Civil Service Commission.

I might add that we have also been approached by quite a number, an assortment of individuals, at these grade levels, who know no partisanship, who are likewise interested in the legislation, and who have points of view about it.

They are unlike some of the postal employees. I understand they have been freed to come down to talk to Members of Congress about the ways they think the legislation might be refined, so the interest is intensive, and it is a notable breakthrough and requires a very thoughtful and penetrating assessment by this committee.

That is why we invited you here to be with us this morning.

Welcome to the committee, Mr. Hampton.

STATEMENT OF HON. ROBERT E. HAMPTON, CHAIRMAN, U.S. CIVIL SERVICE COMMISSION; ACCOMPANIED BY SEYMOUR BERLIN, DIRECTOR, BUREAU OF EXECUTIVE MANPOWER; AND COMMISSIONER LUDWIG ANDOLSEK

Mr. HAMPTON. Thank you Mr. Chairman. I wish to introduce Seymour Berlin and Commissioner Ludwig Andolsek of our staff.

Mr. Chairman and members of the committee:

I am pleased to have the opportunity to appear before you today to discuss our proposal to establish the Federal Executive Service.

The Federal Executive Service is a proposed new and modern personnel management system for the upper levels of the civil service, commonly known as the supergrades.

My fellow Commissioners and I strongly believe that a change in the present system is necessary. We are not alone nor is our concern new.

Dissatisfaction with what exists today has been mounting since the mid-fifties. The criticism is bipartisan and it is general.

The last four Presidents found the present system deficient. One independent study commission after another has expressed concern over the problem. Academic observers have been sharply critical.

Top agency managers have been loud in their complaints. But perhaps most significant of all is the long-standing discontent of the executives themselves. Many of our most able employees feel we have made it extremely difficult for them to exercise their talents fully and to accomplish their program objectives.

The present system is rapidly becoming incapable of supporting the dynamic needs of the country. New programs are established and top quality executives are not readily available to set them on their course.

The success of more than two and one-half million Federal civil servants is dependent upon adequate leadership. New ways to manage the important leadership resource must be established now so that the Government can serve the people better.

THREE BASIC PROBLEMS

The present personnel system for executives results in many problems for all concerned: The President, the Congress, agency heads, individual executives, and the Civil Service Commission.

The Federal Executive Service is designed to alleviate the following three basic problems:

1. Lack of an overall personnel system broad in coverage but flexible in application.
2. Lack of sufficient authority for the manager to use his executive resources most effectively.
3. Lack of sufficient review of executive performance against public program goals.

Permit me to elaborate briefly on each of them.

The most evident problem with the existing system is the fact that there is no real personnel system for the upper levels of Government.

The present personnel program is an outgrowth of the general personnel system which applies to all employees from the lowest grade up. This has proved too rigid to meet the requirements of managing senior staff.

One group after another has been withdrawn from the competitive service or its application modified, until today, at the top, we have not one personnel system, but many.

What we have is a hodgepodge of authorities and pay systems, all under different ground rules, with no one agency accountable for the effectiveness of executive manpower management.

This lack of system frequently results in a disproportionate allocation of executive resources in comparison with program priority needs. Of the 7,000 supergrades and public law equivalents, for example, the Civil Service Commission apportions only 2,754 to the various agencies.

The rest result from direct congressional authorization to agencies or to programs, or result from specific authorities on an occupational or discipline basis.

Even when dividing the 2,754 upper-level positions among agencies, we at the Commission are often faced with very difficult choices between competing demands, and we find it extremely difficult to shift these spaces among agencies to keep pace with changing program priority needs.

The lack of general periodic review of previously allocated authorities in light of possible program and priority changes has undoubtedly permitted executive overstaffing in some agencies and understaffing in others.

Agencies which develop a need for executive staff not readily filled by the normal allocation process tend to go to their substantive congressional committees for special authorities.

This practice has resulted in some agencies' having a much richer upper-level component in relation to program activity than others.

The lack of system has resulted in an unmanaged growth in numbers of upper-level positions. This committee controls the number of general authorities but nonquota authorities can be created at will.

Nor is there central control over the number of authorities granted by various substantive congressional committees.

Because it is so disjointed, the existing proliferation of personnel systems and requirements is understandably very difficult for top management coming from outside the Government to comprehend and to operate within, and neither the Congress nor the President has been able to obtain comprehensive information about how Federal executive manpower is actually being managed.

Agency managers lack the authority to manage their executive resources.

The existing system with its separate authorities and rigid constraints makes it very difficult to forge a top-management team in an agency.

The sharp division in the utilization of career and noncareer drives a wedge between these two groups. The rigid rules governing rank and tenure tied to positions prevent mobility and optimum utilization of key people.

Top management cannot now assign its upper-level manpower in a way that will bring about maximum program accomplishment.

The system does not provide an adequate balance between protecting the individual executive and the need of agency management for flexibility.

Much of the existing procedural protection makes sense at the lower levels of the service.

At the top, however, the majority of positions are one-of-a-kind and both management's and the individual's hands are tied by current law, rules, and regulations.

From 1953 on, we have attempted to keep jobs separated into two groups, with policy involved positions designated noncareer and program management positions, career.

We have learned that this distinction is simply not realistic at the executive levels. Policy determination and administration blend together in these high level positions.

In addition to the artificiality of the distinction, career employees cannot be used in positions designated as noncareer without forfeiting their career rights. The situation is complicated by the fact that more and more positions of top-level responsibility are properly classified as noncareer under current criteria.

This produces three significant problems.

First, the public is denied the services of exceptionally able career employees where they can have the greatest impact.

Next, advancement opportunities for career executives become curtailed.

And, finally, we suspect because of this, some of our most able career executives leave the Federal service in mid-career, a loss we cannot afford.

A very serious problem is that an executive, once appointed, may remain an executive as long as he likes even if he does not continue to make a high-level contribution to meeting the agency's goals.

We have the means of dealing with outright incompetence, but mediocrity remains a problem. A single weak executive can nullify the efforts of hundreds of lower-grade employees, can stall a program activity or void a whole train of research, and can, on the weakest link principle, jeopardize an entire program.

WHAT IS NEEDED

The Civil Service Commission has been struggling with these problems for some years.

In 1966, at the direction of President Johnson and within the limits of existing authority, we cleared away the clutter and inefficiencies that had gathered over the years in our management of Federal executive manpower.

We established the Executive Assignment System, the best program we could devise without seeking new legislation.

As part of this program, we assembled a comprehensive inventory of Federal executive resources to serve two main purposes:

- to identify highly qualified individuals throughout the Government to fill executive vacancies, and

- to provide systematic information about the executive group as a whole to aid in program and manpower planning.

Early in 1969, shortly after this administration took office, the Commission inaugurated an indepth study of the existing system.

Drawing on three years of operating the Executive Assignment System and a generation of experience with managing Federal executive manpower, we reviewed the present arrangement and concluded that further patching of it would be futile.

A completely fresh start is necessary, one which conserves the best aspects of what exists today, while at the same time strikes out boldly in those areas where the present system is most seriously wanting.

We concluded that to meet the Government's leadership needs in today's world, an effective executive manpower program must:

- Require that top agency executives carry out their responsibility for executive manpower management and assist them in doing so.

- Insure that executives who have responsibility for Government programs have commensurate authority over their executive resources in proper balance with the needs of the Government as a whole and the long-run needs for a career workforce.

- Provide the quantity and quality of talent required by: forecasting and allocating resources based on program needs and priorities; recruiting and developing potential talent at all levels; maintaining that talent; and keeping it motivated.

- Insure that the executives in the Federal Government are subject to periodic review of their contribution to current programs.

- Provide individual executives with opportunities to achieve their full potential for contributing to the Nation's progress and for personal growth, recognition, and work satisfaction.

- Assure that high quality employees at entry level and at the mid-management level perceive that they can rise to the top and get important and influential jobs with reasonable security.

- Provide a central focus of leadership to review, analyze, and make recommendations on all aspects of executive manpower management,

including a means for the President to hold agency heads accountable for the management of their executive manpower resource and for the Congress to discharge its responsibilities.

Our objective, then, was to design a truly modern personnel system, tailored to the needs of the upper levels and keyed to today's demands.

Based on our analysis of the problems and the needs, we developed our plan for the Federal Executive Service, an overall approach to executive personnel management.

FEATURES OF THE FEDERAL EXECUTIVE SERVICE

Perhaps the best way to look at the Federal Executive Service proposal is to examine its features, one by one, explaining their purpose.

Of Primary Interest Is the Matter of Coverage

To begin with, we have the problem of defining the term "executive." It could be defined as someone who manages a program of a given size in terms of people or budget; or it might be described according to a level of the organizational hierarchy. But as we analyze the structure and functions of the upper-levels of Government, it seems best to settle on a general definition.

An executive, as we define the term, is an individual who is being paid within the range covered by the present top three grades of the General Schedule and who performs duties not properly classifiable to the GS-15 level or below.

There is no intention to limit the group to managers as such, for these upper levels contain an increasing representation of professional people. Forty-five percent today are in science, engineering, and allied fields and another 15 percent are professionals in such areas as social science and law. In fact, the vast majority of these professionals at the top do manage a specific program activity or organizational structure. Only a very small number of these professionals are individual performers such as bench scientists or technical advisors. The FES avoids making distinctions which would tend to compartmentalize the upper levels, fragment the personnel system, and interfere with effective use of individual abilities at these top levels.

Second, let me describe the target population of the Federal Executive Service.

At the top of the manpower structure of the executive branch are 580 executive level positions at levels I through V, with a salary range of \$36,000 to \$62,500. These are mostly Presidential appointees and are outside the scope of the FES proposal.

Just below these are approximately 10,000 executives paid in the range \$28-\$36,000. These are the present General Schedule grades 16, 17, and 18, numbering about 5,700, and those paid in the same range under other salary systems.

Ideally it would be desirable to cover all 10,000 in a single system.

However, we exclude about 3,500 in the executive branch. About 60 percent of these are Foreign Service officer-type positions. Other groups are excluded because of the special nature of their programs or because they have well developed personnel systems of long standing designed for their individual needs and covering all employees

from the entrance level up. Examples are, Department of Medicine and Surgery in the Veterans' Administration, the Atomic Energy Commission and Postal executives, as well as some under the General Schedule, specifically the FBI and hearing examiners.

Generally speaking, these excluded systems are not now under the purview of the Civil Service Commission or this Committee.

The remaining executives in the executive branch, almost all of the 5,700 under the General Schedule and all of the 1,250 in Public Law 313-type positions, totaling about 7,000, are recommended for inclusion in the Federal Executive Service. Today these 7,000 come under some half-dozen different authorities—governmentwide quota, Department of Defense quota, NASA quota, other agency quotas, Defense nonquota, other nonquota—each operating under different regulations.

Executives outside the executive branch are not covered. These total about 250. Since the FES, as will be described later, relates executive manpower to long and short-range program plans and budgets, which are finally approved by the Administration's central review authorities, it would be inappropriate for the executive branch to oversee the activities of the legislative and judicial branches in such matters.

The proposed legislation provides that the Government of the District of Columbia and agencies in the judicial and legislative branches which have positions paid within the FES pay range must, to the maximum extent possible, adopt a program like the FES for their internal management of executive manpower resources.

Executive branch agencies with excluded employees are urged to adopt as many features of the FES as they can use. This provision, we feel, is an important step toward system uniformity without unduly constraining agencies for which total conversion to the FES is not feasible.

Another significant feature of the FES is the way in which the total size of the upper level is controlled and in which the executive strength of each agency is authorized.

Under the FES, each agency will annually review its executive manpower needs and will request, with justifications, the authorization of a specified number of executives. These requests will be reviewed by the Civil Service Commission, which, after collaboration with the Office of Management and Budget, will authorize an executive manpower strength for each agency.

The review will be based on—

- The current level of budget and program activity in the agency;
- The current level of executive staffing in the agency;
- The anticipated agency program activity and agency budget requests;
- Pending legislation;
- The level of work to be done in the agency; and other factors which may be prescribed.

This procedure insures that executive manpower allocations to agencies will reflect current program activity and that agencies will not retain manpower which was authorized to meet some previous need that no longer exists. It insures that agencies' needs will be reviewed by one central source from the same point of view using the same

standards. We seek a coherent staffing pattern for the Government, free from the swellings which result from piecemeal examination of agency requests by a variety of Congressional committees as well as the Civil Service Commission.

If during a fiscal year an agency is faced with an unforeseen emergency, it may request the Civil Service Commission to adjust its authorized strength. The bill restricts total Government-wide adjustments to no more than 1 percent of the total authorized upper-level strength. (This would now amount to an increase of 70 at the maximum.)

Initial allocations will be reviewed by the Congress and any adjustments must be reported to it. It is important to note that, unlike the present, we will not be doling out perceived scarcity on a case-by-case basis, but rather under the FES we are going to relate, agency-by-agency, current needs to current program.

In the area of classification of executive positions, we have recommended that central position classification by the Civil Service Commission be eliminated as inappropriate for positions at the executive level, which are more often than not, unique, or nearly so.

Our experience is that most assignments at these levels are shaped in substantial part by the characteristics, contributions and personal interrelationships of the incumbents and their superiors. Moreover, many requests for specific supergrade classifications today are based on hierarchy and organization protocol status factors rather than on real differences in duties and responsibilities.

This does not mean that position management will not be necessary. Agencies where there are numbers of executive positions will need some form of position management. This could be based on an organizational structure approach, a program function approach, or an individual assignment approach depending on the agency's program, clientele and workforce.

Under the FES we recommend a combination of rank in the man and position structure. While we are recommending this approach for the first time for all executive positions, it is not a new approach. NASA and other agencies have been highly successful with Public Law 313-type authorities, which operate along the lines we are suggesting now for the total service. We think eliminating central position classification will have the following results:

It clears away the cumbersome and often incompatible dual personnel system—for positions on the one hand and for people on the other.

It permits an agency to focus attention on its overall leadership needs rather than on the content of individual positions.

It facilitates the assignment of individuals to combinations of responsibilities which give them the fullest scope for realizing their abilities to the maximum.

It clears the way for eliminating the vested interest of individuals in specific positions and permits a more fluid use of the team at the top.

In the related area of compensation of executives we recommend that salaries be set by the agency within a range covering the present pay range of GS-16's, 17's and 18's. This is the system now used for PL-type executives.

An individual's pay will depend on such factors as his experience background, his value to the agency, and his duties and responsibilities in the assignment given him.

The average salary of all executives in a given agency, however, cannot exceed the average salary limitation which will be established for each agency by the Civil Service Commission after collaboration with the Office of Management and Budget and which will be subject to Congressional review.

This proposed compensation arrangement permits an agency to equate pay with contribution and reflects our conviction that top management in an agency is in the best possible position to determine what an executive is worth to the agency.

It maintains a firm barrier against general escalation of executive salaries by requiring that all salaries fall within a pre-established range and that in the aggregate they not exceed a set figure.

A career executive's pay can be increased but not decreased during the period of his service in the FES.

The CHAIRMAN. Does that mean his contract period, what is it, 3 years, not his accumulative?

That does not mean, if he was recontracted for, that he could not be rehired at a lower figure?

Mr. HAMPTON. No, sir, he could not be rehired at a lower figure under the re-contract.

He is also entitled to any general pay adjustments for comparability of the white collar pay schedules with the private sector.

Career/Noncareer relationships undergo major change under the FES.

One needed revision is in the definition of noncareer. We think it important to maintain a sharp distinction between career and non-career executives. The distinction, however, should not be the one we set today based on position content. This distinction creates a breach between career and noncareer executives, when it is essential that they be merged into a team. It also prevents full utilization of the skills of career employees. A more useful distinction is that based on the expected length of the executive's Federal service.

The reality today is that a significant proportion of career executives—about 12 percent of the total—are so-called “in-and-outers.” It makes little sense to give them retention rights and to treat them generally as if they are a permanent part of the Government workforce.

Accordingly, we are proposing to change the present definition of “noncareer” to eliminate the connotation of “political” as the only reason for a noncareer category. Under the FES, a noncareer executive will be one who is expected to remain in the Federal service only temporarily. Included in the noncareer group will be top-level experts from industry and the university who take short-term assignments in the Federal service, as well as those appointed because of special confidence or because of their political or program philosophy.

These noncareer executives will be selected by the agency head and will serve at his pleasure with no job or pay security.

The ratio of career to noncareer executives today is not fixed by law. It has, however, as a matter of experience, fluctuated only very slightly over the years with no variation traceable to any one Adminis-

tration. A possibility exists under the present system, however, of a major expansion of the noncareer component of the executive group relative to the career. The FES removes this by establishing a career/noncareer ratio in law, so that, governmentwide, the proportion of career executives cannot fall below 75 percent of the total, the approximate present figure.

The FES provides, further, that the Civil Service Commission, after collaboration with the Office of Management and Budget, annually establish a career/noncareer ratio for each agency according to that agency's special needs at the given time. Annual tailoring of each agency's ratio reflects the wide variations among agencies in career/noncareer ratios which exist at present and recognizes that requirements need constant re-evaluation in light of program changes. In the aggregate, of course, the total governmentwide ratio will be kept within the 75/25 statutory limit.

Senator FONG. In other words, in one agency you could have 50/50?

Mr. HAMPTON. Yes, sir; that could be possible.

Under the FES the head of an agency will have the authority to make appointments to the Federal Executive Service within the career/noncareer ratio limitation. Noncareer appointees serve at the pleasure of the agency head. The following procedures will be followed for career appointments.

An agency will be required to mount a comprehensive recruiting effort to reach both private and Government sources and will have to demonstrate that the best talent available was considered and that the nominee was among the best qualified. The Civil Service Commission is required to assist agencies in their recruiting and selecting activities, including making fully available the Executive Inventory and other Commission resources.

After the tentative selection has been made, the nominee will be submitted for approval to one of a number of Qualifications Boards, each consisting of distinguished representatives of a broad professional or occupational area, both from within and outside the Government, to provide a broad range of viewpoints and public scrutiny of appointments to top-level positions. Board members will be appointed by the Civil Service Commission.

Acting as an arm of the Civil Service Commission, the Board will review the proposed appointment to assure that it is being made in accordance with merit standards. The Board, in each case, in addition to reviewing the qualifications of the candidates, will review the agency's recruitment effort to make certain that it encompassed the full, broad-base coverage required. If a Qualifications Board finds that the recruitment effort was not sufficient, or that the candidate is not among the most highly qualified, it will not approve the selection made by the agency and the agency will have to extend its recruiting effort, select another candidate, or present additional evidence to the Board supporting its selection.

Then, rather than minutely reviewing the proposed appointee's qualifications for a specific target assignment—the agency has already done this—the Board will take into account the potential of the nominee for long-term contributions in his general career area. This broad and thorough consideration by a panel of eminent judges will ensure

the high quality of members of the FES and will thereby make it unnecessary for Qualifications Boards to review the qualifications of FES members for later personnel actions.

Our position is that the Nation's business is too important to be in the hands of any but the best, wherever they may be found. Appointment to the Federal Executive Service will be a mark of excellence. In the final analysis the guarantee of a true merit system leading to the objective recruitment and selection of the very best talent available depends on the open, public knowledge of how these executive positions are filled.

The FES will give top agency managers the authority to use their executive resources as required for most effective program accomplishment. More effective program management is the core of the FES proposal. Ultimately, the FES must stand or fall depending on whether it facilitates the carrying out of the Nation's business.

Accordingly, we have recommended that top agency management be given full authority to assign executive manpower to best meet the needs of the organization. Top agency managers, having been chosen by the President and approved by the Congress, are men of judgment and high principle, with strong motivation to carry out public policy effectively. If we trust these politically appointed top managers with the execution of vital public programs, and with the expenditure of billions of dollars, surely it makes sense to entrust management of key personnel to them. If there should be any abuses, they can be taken care of in the annual review and in the appeals processes.

As part of this greater assignment flexibility, career and noncareer executives, though they will continue to be sharply distinguished in appointment and retention, can be assigned interchangeably to duties.

The present rigid distinction we draw between "career" and "non-career" positions does not reflect reality. In fact, executive positions in the Government lie along a continuum in respect to policy involvement with only a comparative handful at either extreme being clearly ministerial or policy in nature.

Moreover, many policy controversies are not drawn on partisan lines, but occur in areas in which many career employees have a vital concern and an important contribution to make. Equally, noncareer executives can often handle ministerial or professional assignments. Noncareer executives generally have fully as good job credentials as career employees, including level of education and type of work experiences.

Under the FES, since specific assignments will no longer be designated career or noncareer, top management will be able to use individual executives in them in accordance with their special talents, not in accordance with some arbitrary label.

Further flexibility will be derived from the elimination of positions, as such. Since "assignments" will not carry rank or grade, individuals can be asked to do work where they are most effective so long as the duties are properly of executive caliber.

Employment Agreements Represent a Major Innovation

We believe the FES appointment system will assure the high quality of entrants to the upper levels. Experience, however, has taught us

that we still have a problem in the area of continuing contribution. Today, unless an executive is conspicuously incompetent he can remain in his executive position as long as he likes. Many changes can occur, however, in the course of the typical career as a supergrade; rapidly shifting demands and developing technologies may leave certain executives unable to make a continuing contribution to program accomplishment.

We attacked the problem by challenging the assumption that once a man reaches the executive level he is entitled to remain in it indefinitely. Instead, in the FES, we are saying that a career employee who enters the executive group is entitled to continuing Federal employment at a senior level of responsibility, but may remain in the executive group only so long as he is able to contribute effectively to meeting the goals of the organization. The executive group under the FES, then is given a new definition. It will be a fluctuating group of exceptionally capable individuals, all of whom are currently making a significant contribution to meeting the country's goals.

We propose to accomplish this by giving career appointees in the FES employment agreements of a fixed three-year length, at the expiration of which the agency will review its needs and the executive's continued ability to help meet them. It will determine, based on this review, whether or not to offer the executive a renewal agreement.

Since the employment agreement is a novel concept for the Civil Service, it seems worthwhile to go into its features in some detail.

In the first place, only career executives serve under employment agreements.

When an agency signs an employment agreement with an executive, it agrees—

- To assign him only to duties which properly fall within the scope of the FES;

- Not to remove him except for cause;

- To provide training and career development opportunities.

At the same time, the individual executive, while retaining his freedom to transfer, resign or retire, if eligible, at any time, agrees to—

- Accept any assignment within his agency that is properly within the scope of the FES, and at any location;

- Participate in training and development activities.

When an employment agreement expires, the agency has three options—

- It may offer the executive a three-year renewal agreement;

- It may retire him, if he has 30 years or more of service; or

- It must offer him a continuing GS-15 position in the competitive service with all the rights and privileges of a permanent career appointment and for two years he must be paid no lower than his last FES salary.

If the executive is offered a renewal agreement and declines it, the agency is obliged either to—

- Offer him a continuing GS-15 position in the competitive service with all the rights and privileges of a permanent career appointment and for 2 years he must be paid no lower than his last FES salary, or

- Retire him, if he has 30 years or more of service.

If, however, the executive has not been offered a renewal agreement, and if he declines the agency's offer of a GS-15 position, he is entitled if otherwise eligible, to receive either—

Severance pay, or

A discontinued service annuity

(Both of these benefits are based on existing law.)

If the executive has declined offers of both a renewal agreement and a GS-15 position, he is entitled to neither severance pay nor a discontinued service annuity.

We are convinced that the employment agreement concept will make a significant contribution to better execution of the public's business, while protecting the individual career employee's employment and financial status.

Executive and Congressional Partnership and Control Is Enhanced Under the FES

One great problem with the present system from the point of view of the President and, perhaps of the Congress, is the virtual impossibility of obtaining a comprehensive picture of Federal executive manpower and how it is managed. Improvement in this respect is a must.

The FES provides that the Civil Service Commission will annually prepare a comprehensive stewardship report on executive manpower to be presented to the President and to the Congress. This will include at a minimum the following information—

Authorization of numbers, career/noncareer ratios, and average and total salaries, by agency and governmentwide, for the current fiscal year;

Projected authorizations for the coming year and justifications therefor;

Any emergency allocation or changes in career/noncareer ratios that were made during the current fiscal year and justifications therefor;

An analysis of the overall state of the Government's executive manpower management program including such elements as identification, development, appraisal, equal employment opportunity and recognition of excellence.

The current picture and proposed authorizations will thus be available to the Congress in a coherent, organized presentation. The Congress will have 90 days in which to review the Civil Service Commission's recommendations and to intervene, if it desires, before the authorizations become effective.

The stewardship report will also be the means by which the general public will be periodically informed of the actions its Government is taking in the management of executive resources. It will provide the openness of information that is the foundation of an effective merit system.

The FES Provides for an Appeals Procedure To Take Care of the Occasional Problems That Crop Up in Any System

A number of the FES will be able to appeal directly to the Civil Service Commission if he believes his agency has not met its obligations under the employment agreement regarding assignments, utili-

zation or conditions of employment. Present rights to appeal adverse actions and involuntary disability retirement will be continued. Non-renewal of employment agreement may not be appealed.

If an agency and an executive cannot agree on whether or not undue hardship exists as a result of a proposed geographic move, the executive may appeal to the Civil Service Commission, whose decision will be binding.

Noncareer executives have no appeal rights other than those provided in statutes forbidding discrimination because of race, color, religion, age, sex, national origin, marital status or physical handicap.

Under the existing system, very few supergrades find cause to appeal. We do not anticipate any greater volume of appeals under FES.

The Prime Requisite in Converting From the Current System to the FES Is To Give Maximum Protection to Current Career Executives

To accomplish this, we propose that present incumbents of career positions in the GS-16, 17 or 18 pay range be given the option either to enter the FES in their agency or to continue in the appointment they hold on the date the FES goes into effect. If the executive chooses to join the FES, he will be given an employment agreement without Qualifications Board screening. If he remains under his existing appointment in his present position, he retains his current status with the same rights and benefits until he leaves the position.

Executives who, on the effective date of the FES, are in the excepted service in positions which are in no sense "career"—Schedule C positions or noncareer executive assignments—will be given noncareer appointments under the FES. Excepted executives of other types—those excluded by law or serving in Schedule A or B positions—may at the option of the agency be offered a career appointment and an employment agreement without the approval of a Qualifications Board. If the employee accepts the offered agreement, he will have all the rights of any other career member of the FES. If, on the other hand, the employee rejects the agreement or his agency elects not to offer him one, the agency must permit him to remain in his current excepted appointment with no change in his existing tenure or other rights.

We believe these transition arrangements are fair and workable. They will delay for a time the full operation of the Federal Executive Service. Our best estimate is that holdovers from the old system will, assuming the FES goes into effect in 1972, be negligible in number by 1980 as a result of normal attrition, and we see no significant problem in maintaining a dual system for a few years.

The bill provides that the Federal Executive Service will go into effect at the start of the first fiscal year that begins 270 days following the date of enactment. This period is needed to allow the Civil Service Commission and the agencies to prepare procedures and regulations for implementation of the FES.

IMPLICATIONS OF THE FES

Enactment of the FES legislation will establish a personnel system which in our opinion meets the broad objectives of modern manpower management. This presentation has highlighted the main fea-

tures of a program which we believe will bring about better service to the public.

Overhaul of the personnel system for executive manpower is long overdue. The costs to the country of inaction have become too high to permit us to muddle along any further.

Before I conclude this statement, I want to emphasize that any effective and flexible system for executive manpower merely provides the framework within which good personnel management can take place.

Within this framework, it will be necessary for us in the Civil Service Commission, working with the agencies, to provide better executive identification and development programs, to install better performance appraisal systems against program objectives, and to do a better job of relating executive manpower use to the delivery of programs. These things, we believe, can come about only after we have modernized the system within which we must operate.

It is our conviction that the Federal Executive Service represents a major breakthrough in the management of executive manpower resources in the Government, and that it should be enacted as soon as possible.

This concludes our presentation.

We would be happy to answer any questions you may have, Mr. Chairman.

The CHAIRMAN. I want to compliment you on that statement. It seems to me it reflects the accumulative set of experiences over a very extended period of time to try to tighten up the system, as it were, particularly at the top, and I can assure you that the proposal will receive a very warm reception here.

I distinguish warm from hot. There seems to be a different connotation in the relevant temperature of degrees, but a very favorable reception, because it is positive, it seems to move forward into putting into operation some of the experiences that we have all been through in this category of public service.

One of the areas that I would hope you could share your thoughts with us is that of compensation, particularly that one addressed to this level of executive responsibility.

COMPARABILITY

In the other areas of Federal Service, we not only talk often, but legislate toward what we call comparability.

Now, when we get to the level that you envision here, the FES, you are talking about attracting or commanding the service of an expertise group, either as administrator or as substantive experts in some special field, and I am frankly wondering whether this may not become one of the limitations in attracting what you describe as the very best in the field, because they can make so much more in the private sector, and are perhaps receiving much more in the private sector.

Don't you tend to lower the general qualities of the men you attract in here, unless they married rich wives, or something like that?

Mr. HAMPTON. Mr. Chairman, in the area of executive salaries, in our present system, we have never reached what I would call a point of comparability.

We are still attached to the end of the General Schedule, while compensation in industry for these levels of responsibility takes many forms.

It is not always solely in the area of salary comparison. We see many of our people who have left for better jobs, where there is more compensation. There comes a time in their career when most of them have two or three children in college, and it becomes attractive to go outside. We are somewhat limited in this whole area of salary at the upper levels because of the relationship of executive salaries to congressional salaries and the very strong feeling among Members of Congress not to change their own salaries. So, for comparability purposes, we cut off at grade 15, and what we have above grade 15 is generally an extrapolation of what exists below.

Now, in our proposal here on average salary, we will not be pegging a specific salary to a specific job. In our extensive consultations, on the FES with all agencies and other interested groups there were some reservations on this point. The concern was that everyone might be compensated at the \$36,000 level, resulting in escalation. They were afraid that there would be no control, that everyone in the Federal Executive Service would go up to the top.

We recognize that some gradation is needed. We would not normally expect a young man coming out of a grade 15, to go directly into the top of the Federal Executive Service, so we want to relate the compensation to a combination of factors, his personal competency, his ability to make a contribution; in other words, a general review of his background.

Now, in order to have some control over escalation, we arrive at a figure which we call average salary. At the present time, Government wide, this is about \$31,500. Say then, we would apply this to a cabinet department, take the Department of Agriculture. The average salary in the Department of Agriculture is also \$31,500. Then the total executive staff in the Department of Agriculture, will not be authorized to exceed an average salary limitation of \$31,500, which means that they will have to have a mix of people at the lower end of the scale, some at the middle, and some at the top, to maintain this average.

Senator FONG. Mr. Chairman, I must leave to make a quorum of the Supplemental Appropriations Subcommittee.

The CHAIRMAN. I am on that also, so you cast my proxy.

Senator FONG. I want to say this has been very, very informative, and I think the testimony has been very good, and very well presented. I think these reforms are sorely needed.

Senator BELLMON. Mr. Chairman, could I ask a question on that point?

You said the Department of Agriculture will not be allowed to exceed the average level of \$31,500 on the Executive Board.

How long does that prohibition last?

Mr. HAMPTON. For one year. We review it annually.

Senator BELLMON. After one year?

Mr. HAMPTON. We would review it each year.

Senator BELLMON. If you chose, then they would go up?

Mr. HAMPTON. Yes. On the basis of the show of need on their part, the relationship of the salary level to the work to be performed, on the basis of projected legislation and budgetary levels.

In other words, it would be based on a total look.

We would ask what are you doing with the executives, where do you need them, what types do you need.

The CHAIRMAN. You are talking to a genuine farmer over there, and you are addressing yourself to an instant rancher here.

I am suddenly an expert on agriculture, so we are interested in what you have to say.

Mr. HAMPTON. Well, this is simply an example. The basic point is that each agency's average salary will be established individually in relation to its needs and will be reviewed annually.

The CHAIRMAN. Let me go back to the open question there, because I think it is one that we are still sort of evading, that we are ducking.

You are ducking in a way, because you have to live with the Congress.

Congress generally has a state of mind about the limitations about what you pay people in Government. I think if we cou'd for the moment forget about what the Congress is being paid now, or what the limitation is, and address ourselves to the question of how do we achieve the best odds for effective and expert civil service, or FES service, with the greatest of talent that we can tap in Government, what will we be thinking about, do we then have to think about competing with, let's say, the corporate level for some of the highest administrative types that we might be after, or do we continue to ignore that, and attractive for prestige positions, for prestige reasons, or whatever it may be.

Mr. HAMPTON. I share your feeling very much, and I think that we have been remiss in not submitting proposals that reflect more nearly what our experience and conscience dictates what executive compensation should be, and, so to speak, throw it in the lap of the Congress to express what the public interest is in this area.

I feel that in the upper levels of the civil service, where we have now executives that are GS-18's, 17's and 16's, all drawing approximately the same salaries, represents an unfair situation. I think that it is exactly as you have stated, that for those who we attract from the outside, which is a very small percentage of people coming into the career service, we can compete only on the basis of public service and prestige of office.

Present compensation is, I think, unfair to those who are from inside the Government, who are operating very responsibly, in very sensitive programs, requiring long hours and real dedication. I would like to see something done about this to more nearly relate it to some of the practices in industry to reward these people appropriately.

We are looking at other forms of compensation for executives, but we have not yet reached the point of being able to develop any comprehensive proposal. I refer to bonuses for good management. Corporations give stock. The only stock we have to give in the Government would be in our own corporation, and that would be savings bonds.

The CHAIRMAN. We might give them German marks [Laughter.]

Mr. HAMPTON. Yes, sir. But I am glad you feel this way, because I hope when the Quadrennial Pay Commission comes to review this problem in 1972, and makes their report to Congress in 1973, that the back-up data, and the material that we give this Commission will not be based on any preconceived notion as to how Congress may react.

I feel that the time has come to face this problem, and I certainly appreciate your attitude.

The CHAIRMAN. I think it is important that you try to digress at least substantially from what you know the congressional attitude is in order to see if we cannot force the biting of the bullet in this question, that we keep putting it off because our teeth are getting soft, as we acquire a few more years around here.

How we achieve the closing of this gap educationally, to get away from the double standard that the public accepts, one standard of salary level for the private sector, because they believe this their right, and yet would impose a much lower standard in the public sector, even as they require a higher degree of performance from the public servants than they do from the private servants.

The private corporation meetings do not have to hold their meetings in a gold fish bowl and on the front page every day. They do not have to clear their issues in terms of what George Gallup says we think from time to time. They have a cozy operation, where all they have to do is produce at the end.

The others have to run the gamut of a daily bombardment that we call exposure to public opinion, and yet we require of them a much lower level of compensation.

In the interest of I guess it is called saving the taxpayers' money, and which leaves us with, year after year, the searching doubt in here that that is not saving anybody's money at all, and our goal ought to be attracting the most competent in this biggest business there is in the world, namely the Government of the United States, and I am afraid we have let the Congress torture this as a built-in imaginary concept, and maybe it is a real one, that they do not dare bite that bullet, because it will be taken out of their hides at the ballot box, and, therefore, they would rather deliver some kind of political psychiatric tract that will appease the voter, long enough to get by one more time, and each time I seriously worry, lest we are lowering the level of Government capability, and raising that level in the future may well become impossible to raise it fast enough to overtake the speed and the complexity of the changing events that require more and more wise and often unpopular and tough decisions at the Government level.

I think this is one of the reasons why we have such frustration today.

We expect the finest, and we do not always get that, partly because of this publicly imposed, or this imagined publicly imposed level of payment.

I think the limitation of some of these areas to what the Members of Congress are getting, maybe that is a wise limitation, in which case the whole thing ought to be looked at.

Maybe it ought to be separated. In these last several months, I know, I have been fairly conversant with the problems of getting the new Postal System off the ground. And how do you attract somebody that is willing to take the guff he is going to have to take to become the manager of such an operation as that?

You are going to have to pick a top man, somewhere in the administrative realm, and he is probably getting a hundred thousand, or

two-hundred thousand dollars, so you tell him you are going to pay him \$38,000.

Won't he come in here and nobly serve his Government? He would be nobly moved to do so, but I am not sure he would be realistically inspired to take that kind of a loss.

Somewhere we have got to find a way of either pinpointing these exceptional places, and where we think it is worth it, or we have got to restructure the whole system that makes it possible.

I do not carry the belief that we should just raise everybody up to the executive salaries level as a result, although I think it was JFK that said "the rising tide raises all boats," and it would not necessarily have to follow that, I suppose, but somewhere in there we are selling the best of the Government's odds, and options are short under the idea of protecting the taxpayers' dollar.

I think it is a phony way to approach it. It is misleading. It is almost dishonest, if not hypocritical to perpetuate that through the endorsement of such an approach by Members of Congress.

I can say this, having just been reelected, so I can be a statesman for several years, but nonetheless it remains the truth, even though we have made some effort to raise the salaries in the last year, an election year, and succeeded in doing so, and I think most who supported that survived the election.

The members of this committee, who were up for reelection supported it, and they survived it. I think we may be selling people short in terms of raising the level of their understanding, that you kind of get what you pay for, and I would hope that we would make more headway in that direction than we have succeeded in making until now, and I have noticed, even our foot-dragging brethren in the Senate, who have always opposed to do this, have never failed to go down and collect the check the next month, even though it did violence to their rhetoric on the floor, or on the campaign speech trail back home.

That is enough for the sermon for this morning. I think you are moving in the right direction on this.

Mr. HAMPTON. I appreciate very much this attitude, because we are practicing false economy.

There are so few people at these levels of Government to begin with, and one good manager can save you an awful lot of money in the administration of a program. I think that we ought to begin to recognize that.

Senator BELLMON. Mr. Chairman, it seems to me, paragraph two on page five of the bill, it accomplishes the objective you have in mind. It does not seem to have any limitation.

The CHAIRMAN. You are operating under a de facto limitation, are you not?

Mr. HAMPTON. Yes, sir. You do have this limitation on average salaries and on maximum and minimum rates, but the FES gives top management some opportunity to meet the problem in a particular case within an overall limitation.

The CHAIRMAN. For example, you could not bring one in today at a hundred thousand dollars, could you?

You could not bring him in under this service, or under our present one, you could not bring in a man at a hundred thousand dollars, if you felt this was a terrifically important job and it required somebody in that category?

Mr. HAMPTON. No. He would be limited to a salary of \$36,000 until the statutory salary scale for Executive level 5 is changed, because that is the limitation that we presently have.

Moreover, executives are penalized not only in salary because we are not authorized to pay their transportation to Washington, D.C.

The CHAIRMAN. For the record, could you spell out a bit, or summarize it if you wish, the present method by which supergrade positions are now authorized at the agencies.

I think the record should show the differences between the quotas and the positions and the nonquota groups, and I think if we could have that spelled out a little bit on the record, it will help us when we come to weigh this measure.

Mr. HAMPTON. We have that data, sir, and we would be glad to supply it.

(The aforementioned material was subsequently submitted for the record.)

Number and nature of present supergrade authorities (as of March 31, 1971)

General Schedule—Governmentwide:	
Quota	2,754
Special quotas:	
Executive branch:	
Civil Service Commission	1
Justice:	
I. & N., Board Parole, Bureau Prisons	30
FBI	140
LEAA	20
Labor	25
NASA	5
Occupational Safety and Health Review Commission	10
Railroad Retirement Board	9
Hearing examiners	249
Defense	407
Outside executive branch:	
Tax Court	5
Administrative Office U.S. courts	4
GAO	90
Library of Congress	31
Total special quota	1,026
Nonquota:	
Governmentwide	1,320
Defense	634
Total nonquota	1,954
Public Law 313-type authorities:	
NASA:	
Public Law 167	10
Public Law 568	250
Public Law 481	30
Public Law 367	147
Total NASA Public Law	437

Number and nature of present supergrade authorities (as of March 31, 1971)—
Continued

Public Law 313-type authorities—Continued

Other Public Laws:

Public Law 313 (DOD)-----	30
Public Law 496 (Agriculture)-----	5
Public Law 462 (Agriculture, Commerce, DOD, HEW, Interior)---	237
Public Law 370 (Agriculture, HEW)-----	15
Public Law 367 (Agriculture, Commerce, DOD, HEW, Interior, U.S. Arms Control, Transportation)-----	103
Public Law 758 (DOD)-----	15
Public Law 854 (DOD)-----	75
Public Law 377 (DOD)-----	158
Public Law 322 (DOD-ARPA)-----	15
Public Law 692 (HEW)-----	30
Public Law 195 (HEW)-----	30
Public Law 703 (HEW)-----	65
Public Law 793 (Library of Congress)-----	8
Public Law 726 (Transportation)-----	15

Total other Public Laws----- 801

Total Public Laws----- 1,238

Total authorities----- 6,972

Government-wide Quota : Administered wholly by CSC.

Defense Quota : CSC classifies positions and approves qualifications, but does not allocate strength.

Other Agency Quotas : CSC classifies positions and approves qualifications, but does not allocate strength.

Government-wide Non-quota : Professional positions in engineering research, physical science, natural science, and medicine. No limitation on strength but CSC authorizes and classifies positions and approves qualifications.

Defense Non-quota : Professional positions in engineering research, physical science, natural science and medicine. No limitation on strength. CSC does not authorize positions, but classifies them and approves qualifications.

Public Law (other than NASA) : Mainly scientific and professional positions in research and development. All but 5 in Agriculture are subject to CSC approval of proposed pay rate, determination whether position is properly of R&D type, and approval of qualifications. Numbers fixed by law.

NASA Public Law : Not under CSC in any respect.

EXCLUDED AGENCIES

The CHAIRMAN. Certain executive branch agencies are excluded from the Federal Executive Service coverage, the Postal Service, the FBI, and others.

How would a ceiling be established on the number of executives in GS-16, 17 and 18 in those agencies?

Mr. HAMPTON. Those agencies that are excluded would, I believe, have to come up to Congress and obtain supergrade spaces, as they always have.

I am not sure on this point.

Mr. Berlin can answer more fully.

Mr. BERLIN. There are 23 groups that are excluded from the Executive Service.

First of all, there are entire agencies, such as Atomic Energy, Canal Zone Government, Post Office, and TVA.

They obviously would continue their present system of authorization, through the Committees with which they deal.

Then, there are parts of agencies excluded, such as in Justice, the U.S. Attorneys and the FBI. I assume they, too, would continue to get their authorizations as they do at present.

Special services within agencies, as for example, the Foreign Service and the Department of Medicine and Surgery in VA, which are total self-contained systems, would also continue as at present. So in every instance, there is a method by which these agencies or parts of agencies now get their authorization, and this same method would continue.

Mr. HAMPTON. Although the Congress may want to say the executive requirements of some of these agencies would be reviewed centrally. If the requirements alone were to go through the review process, it might simplify matters.

The CHAIRMAN. From a point of view of looking at the Government of the United States as a whole, as you see it, in this intra-structure that you envision here, it would be desirable if that were to take place, I take it?

Mr. HAMPTON. That is my feeling, yes.

The CHAIRMAN. Do you agree with that?

Mr. BERLIN. Yes, I agree as a long-range objective, sir. There would however, be a problem in those agencies that have a total personnel system from their initial entry level on up to the top. Merely taking the top and putting it under the Federal Executive Service, without a rationale and a coherent inter-relationship with the lower levels would be damaging. In the Federal Executive Service, as proposed, there is an inter-relationship, both in terms of system, and in relationship to the Civil Service Commission as well as to this Committee, that makes it a coherent system from initial entry on up. Therefore, to take just the top of the structure in excepted agencies and put it into the new Federal Executive Service would require substantial work on adjusting the total system. It is for this reason that the FES proposes that excluded systems move toward the FES approach but does not require their immediate coverage in the FES.

Mr. HAMPTON. I think I may not have made my point clear. I do not advocate at this time that these agencies be included in the Federal Executive Service.

I was simply suggesting that the allocation of their resources might be subjected to the same type of program review as is provided for covered agencies. Recommended allocations could be submitted to Congress as a separate item for review at the same time as the CSC's general annual submission.

I am not sure about the exact relationship that these separate agencies have with Congress. They are not now under the purview of this committee, and it might be something you would want to look into.

The CHAIRMAN. We have that wide open tent which we live under called oversight, which is a kind of passport into any sector, I guess, that you have real questions about, so we probably could find a way to get in there, if it seems wise to do so.

Do you have any views on that point?

Mr. ANDOLSEK. I agree it could be an objective for a long-term haul. Certainly it would be a good thing for all of Government to be looked at in the same way.

I, for one, do not agree that the Congress should have taken these agencies out of the civil service system. I think the system is flexible enough to accommodate these particular agencies if given a chance, and it has always rubbed me the wrong way that certain agencies and systems have been given superior status. I also want to mention, that

when I first came on board 8 years ago, I made a little laundry list of the things that I thought could be done in the Civil Service Commission, through my years of experience on the Hill and in the Army. The idea of doing away with some of these special privileges was very high on the laundry list, and I wholeheartedly support the statement made by the chairman.

The CHAIRMAN. In the testimony, you made the statement, "The sharp division in the utilization of career and noncareer drives a wedge between these two groups."

Could you expand on that a little bit?

Mr. HAMPTON. Well, say you are the head of an agency, and you have a top-level career man, that you want to use in a policy-type of position. In order for him to go into a noncareer position, he loses his personal identity as a career man, and as such, his status is lost, and his tenure.

This is unfair to the individual and prevents the Government from making full use of its best career talent. While many jobs now designated noncareer are filled by former career employees, many of these are past retirement age and, therefore, have less at stake personally in losing their career rights.

We should be able to use an individual where he can serve best, and he should not be penalized for taking any job. Under our present system he becomes tagged as Schedule C, or noncareer, and his future usefulness to the Government is jeopardized.

I think the fact that you can use people where they are most needed, without identifying positions and duties as being noncareer, will establish a much better rapport where the noncareer identification is to the individual and not to the position. I think the present distinction sometimes does make differences between the career and the non-career that should not exist.

They are all one team, and they all serve one Government, even though they do serve under different conditions of employment.

CAREER STATUS

Senator STEVENS. Could I inquire about that?

Mr. Chairman, I have had a close acquaintance over the years with this matter. When I was in the Interior Department, I found that, at times, people lacked qualifications for career positions, yet they had superior qualifications for the noncareer jobs and vice versa.

Mr. HAMPTON. They would be used to perform the particular job for which they were best suited.

Senator STEVENS. What will you do with career status. What does career status imply?

Mr. HAMPTON. This is where you have to divorce your thinking of what will exist tomorrow from what exists today.

Senator STEVENS. Let's talk about job security. How great is job security for a career person who moves into a noncareer area?

The CHAIRMAN. He gets the option under this system to go back into his top career position.

Mr. HAMPTON. His career status would not be affected, sir, because we will not identify positions as career and noncareer.

You identify the individual based on the conditions of his employment, so that the career man remains a career man and is not identified by a particular position in which he serves.

He is a career man serving where he is needed by the head of the agency, and he retains all the rights of the career man.

Senator STEVENS. I well remember leaving town January 20, at 12:01 p.m.

How is the new administration going to secure that rapid departure under this system?

Mr. HAMPTON. You will have twenty-five percent of your Federal Executive Service who are appointed as noncareer and serve at the pleasure of the head of the agency. In a transition period their positions are immediately available to the new top management.

Senator STEVENS. Are they identified?

Mr. HAMPTON. The individuals are identified.

Senator STEVENS. The individuals. But the jobs they perform are not?

Mr. HAMPTON. It is the individuals who can be removed. We will leave it up to the new head of the agency how he will fill the positions they occupied. He would have immediately available for his use 25 percent of the Federal Executive Service, and the people that he brings in, he could use in the existing positions or somewhere else.

He may, for instance, want to move a career man into one of the vacated jobs, or divide up the particular responsibilities among other positions.

Senator STEVENS. Hypothetically speaking, if I were a new Solicitor of the Interior Department, as was once the case, and concluded that I was displeased with somebody's performance who is in the 75 percentile, I want to replace him immediately with someone whose judgment I trust.

This situation occurs with new people in appointive office.

How do you get to the 75 percent?

Mr. HAMPTON. If you are the Solicitor, and you come in and wish to relieve a career man of his present assignment you can move him to any other position properly of executive caliber, while he is under an employment agreement. If, when his agreement expires, you believe he is not contributing adequately at the executive level, you can decide not to offer him a renewal.

Senator STEVENS. In identifying people, don't you identify portions of the budget at the same time?

For instance, in our Senate offices, we are presented with a budget, and we can set our salaries at any level we want, as long as it is an amount that fits the computer for accounting purposes. Yet we can hire as many or as few people as we want. We can also admit to our staffs people of any political persuasion.

Why isn't a percentage of the budget more carefully considered instead of a percentage of the personnel?

As I understand it, you are dealing primarily with numbers of people instead of percentage of the budget.

Mr. HAMPTON. The number of people of course will be related to budget.

If you want not to have as many executives, you do not have to request or utilize this resource. Under the FES the manager in an executive branch agency will have similar flexibility to what you have here on the Hill in your own offices.

Senator STEVENS. If we determined that you would be assigned 25 percent of the people who are noncareer, or new executives in one of these agencies, instead of having three assistants with a certain grade on the pay scale, he would prefer it rather than having two

assistants and three very competent secretaries; it would seem to me, if you wish to attain executive discretion, that the executive should be allocated the direction allowing him to manage it the way he wants to.

Mr. HAMPTON. That is what we are doing. He does not have to have three special assistants in the Federal Executive Service.

Senator STEVENS. Maybe I misunderstand. Is it correct that you are telling us a certain percentage of the jobs are noncareer?

Mr. HAMPTON. That is not rigid. That is a limitation. He may want just 10 percent noncareer. He may want 2 percent noncareer.

He may want to have 90 percent career. We are not telling him what he should have. We are just telling him you cannot have more than 25 percent noncareer.

Senator STEVENS. Then I would like to go back to that question again.

How do you identify the 25 percent that will not be there after he brings in his people?

Mr. HAMPTON. They are identified in their person by the type of appointment they have. Career executives are appointed under merit system standards and usually at a lower level of responsibility. Non-career executives are appointed by the agency head and serve at his pleasure.

They are identified as noncareer, and that is the type of appointment that they hold. A list of these people would be immediately available, just as such lists have been available in every transition I have gone through.

The CHAIRMAN. Would they be subject to the 3-year contract?

Mr. HAMPTON. No, sir. Noncareer people have no employment agreement. They have no protection. They serve at the pleasure and at the discretion of the head of the agency. That is the benefit of having them in that situation.

Senator STEVENS. Thank you very much. I happen to agree with your proposal. My experience was such that new executives simply could not get involved, because of the lack of confidence in the people that they moved in with, not because the people were themselves incompetent. The new man wanted personnel of his choice around him. This seems to be the case everytime, no matter which party is in power.

Thank you very much.

Mr. HAMPTON. It has been a problem of every transition, and we have found that transitions vary in length before the restoration of compatibility is re-established.

One of the psychological benefits of something like this is that we have found that when the head of an executive department feels that he can do things, he is much more cautious about doing them than if you tell him he cannot do something. Then it becomes a challenge.

We have looked at other situations, in State governments for instance, where 300 executives in a particular State were serving at the pleasure of the governor. Under those circumstances, the governor was more inclined to take a real look at these people, and their worth, than he would have been if he was told that he could not do anything. A large number of these people were retained, even though they were noncareer.

In our own present set-up, even when the head of the agency has the opportunity to remove people serving in schedule C type positions

we found these jobs were filled by career people, who more often than not were not removed by the agency head.

Senator STEVENS. Thank you very much.

The CHAIRMAN. The staff has just handed me a list from your sort of position background paper on this proposal, that lists the groups in the Federal Government that are exempt from this proposal.

It is the obvious ones you have alluded to, the Foreign Service, J. Edgar Hoover, TVA, and that sort, but it has a great many others.

It has the Peace Corps, Foreign Information Service, the National Science Foundation, Council of Economic Advisors, the Department of Medicine and Surgery of the Veterans' Administration, the Panama Canal Zone Government, and another group, the General Accounting Office, the Library of Congress, the Government Printing Office, and so on.

Perhaps if we submit this list and have it made a part of the record here, you could address yourself to a particular explanation of why it seemed to be relevant in each of these categories.

Perhaps you can take all of them, even those that you have already alluded to, and make that a part of the record as well.

Mr. HAMPTON. I will be glad to, sir.

(The aforementioned material was subsequently submitted for the record.)

PROPOSED EXCLUSIONS FROM FES: AGENCY AND NUMBER OF POSITIONS (AS OF JUNE 30, 1970)

	Number	Reason for exclusion
EXECUTIVE BRANCH		
Entire agencies excluded:		
Atomic Energy Commission.....	428	A
Canal Zone Government.....	0	B
CIA.....	(1)	A
Council of Economic Advisers.....	11	B
FDIC.....	40	A
Federal Reserve System.....	(1)	A
National Science Foundation.....	104	B
Panama Canal Company.....	2	B
Post Office.....	160	A
TVA.....	39	A
Other groups excluded:		
Hearing examiners.....	249	C
Justice:		
FBI.....	140	A
U.S. attorneys and assistant U.S. attorneys.....	53	B
Foreign Service (State, Peace Corps, etc.).....	2,066	A
Treasury:		
Office of Comptroller of the Currency.....	21	D
Office of Assistant Secretary for International Affairs.....	51	D
VA: Department of Medicine and Surgery.....	215	A
Total.....	3,579	
LEGISLATIVE BRANCH		
Government Accounting Office.....	75	E
Government Printing Office.....	23	E
Library of Congress.....	90	E
Total.....	188	
JUDICIAL BRANCH		
Administrative Office of the U.S. Courts.....	6	E
U.S. Tax Court.....	4	E
Total.....	10	
DISTRICT OF COLUMBIA GOVERNMENT		
District of Columbia Government.....	64	F

¹ Unknown.

REASON FOR EXCLUSION

A—Has a self-contained personnel system covering all employees from the entry-level up and designed to meet the special needs of the agency or service.

B—Has operated for some time under self-contained personnel system designed to meet special needs.

C—Excluded because of their relationship to the Administrative Procedures Act. Administered by the Civil Service Commission.

D—Activity financed by non-appropriated funds and has special self-contained personnel system.

E—Outside the executive branch. FES relates executive manpower to long- and short-range program plans and budgets, which are approved by the Administration's central review authorities. The CSC, as an executive branch agency cannot appropriately oversee the activities of the legislative and judicial branches in such matters.

F—As a large local Government has a unique mission among Federal agencies. Has self-contained personnel system covering all employees from the entry-level up.

MEDIOCRITY

The CHAIRMAN. In your testimony, you say, and I quote:

"We have the means of dealing with outright incompetence, but mediocrity remains a problem."

Now, under the FES, a mediocre executive could be removed from his position and put into a GS-15 grade, the top pay step of which is \$31,000, \$32,000.

Now, an obvious question is, isn't that a pretty high price to pay for mediocrity?

Mr. HAMPTON. It is, Mr. Chairman, in the sense that it is very easy to ask if someone is really not up to snuff, why do you have any obligation to him at all. While I agree with this, there are humane considerations involved too.

Maybe the term mediocrity is not the best use of that word, but the executives we refer to are doing work of less significance to the agency.

Their skills may have become antiquated because they have not taken steps to keep them current. In today's environment, we find technology changes, methods change, and people at these levels have to have continuous training. Also, some people who reach this level at times feel that this is as high as they are going to go, and there is a lack of motivation on their part.

They are doing their job, but they are not putting much effort into making a significant contribution, so they are mediocre when looked at in the light of other performers. But they can serve effectively in other capacities, and their knowledge and long experience can be put to use. We felt that salary retention, for a period of two years was the most humane way to handle the problem.

The CHAIRMAN. I suppose in many of those cases, they would have a long accumulation of years, and thus might be approaching the retirement line in their career.

Mr. HAMPTON. Yes, sir. Let me give you some significant figures that support that.

We have been able just recently to gather some interesting data about the make-up of this executive service as it really exists.

The current average age of people that would be covered is 53 years of age, and for scientists only, it is 52 years of age. We find, also, that at the time of initial appointment to the supergrade level, the average age is 45, so they are, as you say, people of considerable experience.

Now, about 88 percent of the upper levels in the Federal Government are made up with people who came from within the system, so we are talking about a group with long Federal service therefore, we do feel an obligation.

Say, if a person is the average age of 53, and he has completed three years under an agreement, and if the agreement is not renewed, in most cases, he would be eligible for optional retirement, or he could continue as a GS-15.

I think this parallels somewhat what they do in industry as a humane way of dealing with this problem.

The CHAIRMAN. I think the key is the word humane once more.

I suppose so far one of the unavoidable consequences in our economic system is that you get a high casualty rate among guys that get up to be my age, in terms of what they used to do at age forty, let's say, in that system.

If you catch them by the time they are fifty, when their costs are the highest, that is their families are probably in college, and all of this sort of thing, so, therefore, what do you do, shoot them?

I suppose that would be more efficient in dollars and cents perhaps, but we happen to think that there are some other elements here by which you measure this, so I suspect that you would have to allow in our overall philosophy of this, this type of circumstances that could come to pass, in the interest of just sheer decency, or what you call humane treatment.

Mr. HAMPTON. I get disturbed about this, because we always hear in our business about the big producer, the young hot shot and so forth, but in a lot of Government business, these fellows who have the gray hair and have been around a lot have got a wealth of knowledge and irreplaceable experience.

They may not be the best program operator, and there are a variety of reasons for that, but they can still make a very significant contribution to the running of that agency. We have never had a device before to treat this problem, and as a result, sometimes people who are frustrated with the system will abolish a job, and throw a man into reduction in force, with very serious personal consequences.

Senator STEVENS. Mr. Chairman, I have a question.

Almost every department with which I have had experience, has created a position where they place people. I recall an instance where we had a special program for this. We have always devised some means to accomplish the purpose to which you now refer.

We did it indirectly. Aren't you actually just adding dignity to an approach where everyone understands what is going on?

Mr. HAMPTON. To some extent, perhaps. However, I think that these people do have a real worth to the Government and most of the make-shift ways now used to handle these problem situations are designed more to get the partly productive executive out of the way rather than to use the skills he has.

Senator STEVENS. I do not disagree with you, but I believe you have implied we have been throwing these people out in the past.

I do not think they have been thrown out in the past. I think they have all been used, but in an indirect way, and probably in an inefficient way.

The CHAIRMAN. I interpreted this to mean that a man would be taken out of the executive class and put back in at a GS-15, because he was mediocre, but I think my question left out one word, because he was a mediocre executive, or administrator, that he may have a rich resource, which would permit utilizing other things of that person which come from his accumulative experience, and that would still make him a valuable person, so it would seem to me that you would still use him in a very meaningful way.

Mr. HAMPTON. Under the present system there are difficulties in doing this because of questions of rank and position status which must be maintained.

This is quite different than to say, as we will under FES, that here is an individual executive who could not hack it in a particular operational program, but who does have long experience; somewhere else he could be very valuable.

Today, if he did not want to voluntarily leave his particular position then what recourse would management have? They could not offer him a position at a lower grade; they couldn't offer him a position at the same grade but at a lower rank in the agency hierarchy. I think we are addressing ourselves very directly to this problem. In addition, we are trying in the FES system to be more positive in terms of who goes into the Federal Executive Service to begin with.

We are going to have programs of feeder development, of proper training at the lower levels to back up this system, and we hope that what we will get through these Qualifications Boards are the best available people.

We also want to spend more time and effort on developmental aspects and training.

I see as this system operates it will be in 6 or 7 years that you will begin to see the real payoff. Our executives then will be a valuable asset which the Government has spent a lot of time in training and developing.

With the ability to use this resource flexibly, I think many of these problems we have been thinking about in the past will disappear.

Mr. ANDOLSEK. Every time I board a plane, I make an attempt to look at the captain, and if that captain has a little gray hair on his sideburns, I feel a lot safer. If this system is adopted, I'm sure managers will see that senior personnel are given assignments where they will earn their salary.

TAX INCENTIVE

Senator STEVENS. I have one comment to make. It seems to me that if you want a true Federal Executive Service, something further must be done. A study of the tax laws, should be conducted to ascertain what factors encourage people to go into private industry.

I know of an instance where a man came in with President Nixon, who has since departed and gone back to business. He has five children in college, and he had his own business. He found that, even though he had a fairly decent income, the tax consequences of his private business, as compared to those in Government were vastly different. He did not have the cash flow from his employment in Government to keep the children in school. This illustrates the whole concept of cash flow, and the money that goes back into the Federal Treasury

from a Government executive's salary. We just witnessed the problem of one Governor who took a legitimate tax deduction, and finds he is in the press and the public eye because of that fact.

The CHAIRMAN. Because he abused his own taxpayers in California of saying they ought to pay their taxes until it hurts.

Senator STEVENS. The tax laws still exist. The point is that the Federal executive, whoever the Government employee is, does not have the tax advantage as one in private enterprise. If an equivalent concept is to be attained you will have to find out where the Congress would bite the bullet and allow the Federal executive to have some concept of tax savings.

Perhaps, for instance, a method to create additional retirement reserves could be found. We just did it with the fishing and merchant marine industry. We passed a bill last year stating that the successful operator of a merchant marine fleet can create a replacement reserve. The money he would pay into the Federal Treasury goes into the Federal Reserves. If he uses it to modernize his equipment, that is considered an indirect Federal subsidy.

Perhaps we could do something like this to build up a fund to create an incentive to stay in the Federal Executive Service.

You just told us what we will do about the comet that is flaming out. However, there is really no incentive for those to stay in who are on the upswing.

Mr. HAMPTON. We've even thought at times that we should make a proposal that executives be given a tax exemption on a certain portion of their salary.

We thought of this in terms of the fact that a Federal executive on an annual salary is subject to the maximum amount of taxation, because he has no real deductions, although he travels and he has certain representational duties, and he buys people lunch. These expenses come out of his own pocket.

His per diem is minimal. We have up to \$40 a day per diem for certain executives on a trip. He has to account for every cent of that, by showing what he paid for his meal, what he tipped the bellboy, and so on. Most executives in the private sector, if they were to have someone for cocktails and lunch can count his lunch in terms of expenses. But the Government executive pays for the other guy, and he pays for the drinks, and cannot deduct these as an expense against taxes, because it is not considered as part of doing business. So he pays the maximum amount. We have thought because of the salary limitation, it might be desirable to make some suggestion for tax-free expense allowances because I am sure most executives pay a significant amount of money out of their own pocket, doing things for the Government, in terms of establishing better relations, in the same way that businessmen do.

We have thought about the idea of a bonus to a man who makes a significant contribution to administering his program so much better that it has a budgetary impact. He should receive some recognition, or some incentive.

The CHAIRMAN. I think the Senator has put the finger on it, on a very critically important factor here, in terms of luring them in.

Someone on a salary period, he is brought before the IRS, and if he has some structure of multiple holdings, or as I said earlier out of

wisdom, to marry a rich wife, he has all kinds of other options that protect his position, but without those, he really is severely taxed, and with these again, I think the case, as the Senator has alluded to it, our friend, the Governor, the fact that a man could be a millionaire, and not pay any State taxes, perhaps this is a discrepancy in the structure.

It is all legal. It is all above board, but the fellow without those advantages pays very heavily.

The only alternative he has is an explosion in population, and he is now being inhibited on that, and I think we still have a great deal to go in liberalizing this concept.

Senator STEVENS. Of course, I have to agree with the Governor of California. But the problem is that you have to first lose that much money to not pay taxes, yet you are still not ahead. I am still thinking about it the other way around. For instance, we have the bill for private individuals not under any pension system, whereby they can set up their own plan, and draw the money in later years of retirement.

I see no reason why we cannot do the same thing for Federal people. There would be more meaning to this optional retirement concept. At present, I do not see it in terms of the executive service, or in terms of what we are doing here, although I will tell you this. We already have an expense concept in terms of congressional people in Washington. I do not think the Congress would hesitate to bite that bullet for your executive service, because we have \$3,000, or \$3,500, and a similar concept exists for your people, particularly your noncareer people who enter the service to take certain jobs, they have the expense of maintaining the house at home in case the ax falls.

The CHAIRMAN. Do you have any further questions?

Senator STEVENS. No.

The CHAIRMAN. We have two or three other areas here. They are a little complex, Mr. Hampton. I think maybe I will submit those to you to expand upon, and we may then have you back again, and pick your brains again on this, but I think it would save your time and ours on that score.

So we will submit these, and you may submit your answers for the record.¹

The CHAIRMAN. So, Mr. Hampton, you have opened up for us your farsightedness, and given us a look at a lot of new frontiers here that you have talked about for a long time, I know, just in my short term here on this Committee, and they go back before that in your instance, and I just think that this Committee could make a real contribution by daring to move out a bit in trying to test the water in those areas, and we may make some mistakes. You may have some mistakes in this new proposal, but I would say God bless you for the mistakes, because it means we are trying.

Too many have waited too long. They want to make sure it is perfect. Sometimes you can wait until you are gone, if that becomes the criteria, so I thank you for your helpfulness, and your contribution, as well, as the whole group here this morning.

Senator STEVENS. I have one last question. May I inquire to what extent the employees of organizations have participated in any con-

¹ See page 68.

cept of yours, Mr. Hampton, as far as your Federal Executive Service in relationship to this bill?

Mr. HAMPTON. Yes, sir. This particular proposal, about a year and a half ago, was circulated to all of the employee organizations, to every Federal agency, and to all of what we call the public interest groups.

We asked them for their comments, we told them it was a proposal, that we needed significant input on it, and we received those comments from these various sources.

We have reworked the proposal at least four or five times, taking into consideration all of these comments.

I do not know if you would want all of this information in the record, but we certainly could provide to the staff a summary of this material for their study, and we would be glad to do so.

The book of this correspondence is about an inch and a half thick but the staff may want to look at it and we might do up a summary if you like.

Senator STEVENS. Mr. Chairman, I think that would be very helpful to have the comments that were made, at least for a staff review, and whether or not they put them in the record, that is another matter, but these comments that led to a revision, and I think it would be very significant, because I assume we will have hearings from other people down the line, and I would like to have their comments.

The CHAIRMAN. If it is agreeable, it would be wise and permissible to submit them for staff review, rather than putting them in the record at this stage, and then judge what would be most helpful record-wise.

Mr. HAMPTON. We would like to work very closely with the staff, realizing that the FES is a total departure from the past, and that many people tend to look at this proposal in terms of its relationship to what exists now.

What we are trying to achieve is totally new thinking. The FES can only be evaluated on the basis of the merits as a total coordinated system. We realize that it is difficult on the first pass to come up with a document that is, as you say, perfect, and we are open to any suggestion on how to go about achieving this objective.

We would be happy to work very closely with the staff.

The CHAIRMAN. We have on this Committee in the person of Senator Stevens somebody who has been through this mill on the other operating end, and we have an input there, which also sharpens our questions, as well as our assessments, so it is helpful both ways.

Thank you very much.

The Committee meeting is adjourned.

(Whereupon, the meeting was adjourned at 12 noon.)

(The following material was subsequently supplied for the record:)

June 28, 1971

The Honorable Robert E. Hampton
Chairman
Civil Service Commission
1900 E Street, Northwest
Washington, D. C. 20415

Dear Mr. Chairman:

Since the May 10 hearing on S. 1682, the Committee and its staff have had an opportunity to review your summary of the comments on the bill of the Federal agencies and the employee organizations. These comments, together with discussions at the staff level, have given rise to additional areas of Committee concern and to certain questions about the philosophy of the measure and its administrative feasibility. The bill has been altered somewhat from the version on which the agencies and the unions commented, but a number of the misgivings expressed about the bill in its present form appear to remain unanswered. Since the measure, representing a radical departure from current procedures, would provide for sweeping changes, I believe it would be helpful to have for the record the Civil Service Commission's response to some additional Committee views; and to have your thoughts on some of the criticisms expressed by the Federal agencies which will be called upon to operate under the proposed supergrade reorganization plan.

First, concerning the bill's general philosophy, I see merit in the position taken by some of the agencies that, although the bill would establish a system calculated to administer a reasonably effective personnel program for certain executives in grades GS-16,

17, and 18, the system is not entirely appropriate for substantial numbers of other supergrades, such as scientists, engineers, certain professionals, faculty supervisors and others who are not now executives or managers and who were never expected to be. The notion that the supergrades should constitute an elite cadre of energetic, able, and adaptable executive managers temperamentally willing to accept high risk for commensurate reward and sufficiently flexible to move about and provide impetus to Government programs through interagency "cross-fertilization" is a current and an attractive idea. It appears to undergird much of the thinking behind S. 1882. But I am not certain that this picture of what the Government's extremely able corps of super-grades are now or are ever likely to become is an entirely accurate one.

There are now substantial numbers of upper-level employees, extremely useful and competent people, who are avowed specialists in their fields. Many of them are lifelong careerists who are intended to be "locked in" to their respective fields, who expect to remain so, and who are not qualified to fit into the attractive but theoretical notion of interagency mobility. To be sure, the agencies have now and can in the future recruit able and energetic executives who, like "in and outers", could make valuable contributions to a single agency or to several by serving under three-year contracts in the proposed Federal Executive Service. But these executives constitute by no means all the supergrades covered in the proposal; and the question whether such a radical revision of existing procedures is necessary for all within the supergrade pay range seems to merpertain. Perhaps the uses to which the Executive Inventory has been put would provide insight into this question. It would be helpful to the Committee to have on a year-by-year basis the numbers and types of supergrade positions that have been filled in the Federal agencies by referrals from the inventory as compared to those that have been filled from other sources.

Following are additional questions on which the Committee would appreciate having your views:

Impact on the Career Service

The provisions of the bill could give the entry- and mid-level employees cause for concern about career tenure in the Federal

Executive Service. He could envision an executive as a "short-timer" serving under a terminable contract. This assessment would not present a favorable picture of his own future, since his career tenure would end at grade GS-15. For those outside the Government, continuity of Federal service is a major attraction. Surely those men who are interested chiefly in challenge, mobility, and risk are not the only able people capable of serving the Government, and the recruiting effort should not be directed exclusively to them.

Transition

To protect career executives on the rolls just before the effective date, the bill provides that a career employee may elect to continue under the appointment held prior to the effective date. For a number of years, this will result in the existence of two executive manpower systems.

Nonquota Scientific and Engineering Positions

Several agencies maintain that establishing a ceiling on nonquota scientific and engineering positions will result in a serious loss of flexibility and a return to the circumstances under which agencies had no way of overcoming the limitation of fixed quotas when valid need arose.

Fallback Provision

The bill provides that under certain circumstances if the contract is ^{not} renewed, the executive may fall back to grade GS-15 with saved pay at the higher level for two years if the agency has a grade GS-15 vacancy. Suppose there is no vacancy "without the displacement or reduction in grade of any employee in the agency serving in GS-15."

Why should an executive recruited to an executive position from outside the Government be allowed to fall back to GS-15 if his contract is not renewed?

Political Implications

When the Administration changes from one political party to another,

what is your assessment of the possibility that the agency heads will fail to renew the expiring contracts of career executives in order to create vacancies to which their own people can be appointed?

Retirement

If a contract is not renewed, the executive can be forced to retire if he is eligible. Power to enforce retirement, a new and potent authority in the hands of agency heads, is strongly opposed by those who point out that removal should be only for cause. Enforced retirement, a feature of "up-or-out" personnel systems, comes hard to employees who for 30 years have demonstrated their competency.

Career-Noncareer Ratio

How will the Civil Service Commission determine the ratio of career and noncareer positions assignable to each agency within the Government-wide 75%-25% ratio? Since career and noncareer assignments are intended to be interchangeable and there will be no position descriptions, determination of individual agency ratios must be somewhat arbitrary. Why are assignments interchangeable? If the nature of the assignment is not controlling, the reason for having career and noncareer appointments is vitiated.

Similarly, the Job Evaluation and Policy Act of 1970 requires a coordinated job-evaluation system for all positions. Under the Federal Executive Service, as I understand the proposal, there is no job evaluation.

Thank you for your assistance to the Committee as it assesses this measure.

Sincerely,

GALE McGEE, Chairman

fw



CHAIRMAN

UNITED STATES CIVIL SERVICE COMMISSION
WASHINGTON, D.C. 20415

JUL 15 1971

Honorable Gale W. McGee
Chairman, Committee on Post
Office and Civil Service
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This is in response to your letter of June 28 concerning the Federal Executive Service (S. 1682).

I can sympathize with your concern over certain aspects of the proposal. The questions you have raised are among the same issues my colleagues on the Commission and I gave very thorough consideration to before we recommended the proposal to the President. They are among the same issues that the Office of Management and Budget and the White House staff considered before they recommended it to the President. The Federal Executive Service is an important and precedent-setting proposal with the potential for long range effect, and we are most appreciative of the thorough review being given to it by your Committee.

The specific features of the FES evolved into their present form over a period of several years. Many opinions were sought and heeded. Agency spokesmen recommended for and against many of the ideas. Some agencies felt strongly at one time that some features of the FES were clearly contrary to their self interests. Most changed that view before we asked for their official comments; others have changed since. We did not expect instant acceptance of so basic a change. We find the very broad support we have received from the agencies very confirming of our decision to go ahead.

A reply to each of the issues raised are attached as Tabs 1-10. The major points are summarized below.

The discussion questioning the all-inclusiveness of the FES seems to imply that the proposal is basically designed to increase interagency mobility. That simply is not the case. While mobility is a desirable characteristic of the career service, most of it must come before people

STAT

Approved For Release 2004/12/15 : CIA-RDP74B00415R000600070002-3

Approved For Release 2004/12/15 : CIA-RDP74B00415R000600070002-3

reach the senior levels. There is nothing in the FES which specifically promotes or prevents movement between agencies. The agency head alone has the authority to hire and assign people, and we will not require him to accept or appoint people he does not want. But, we do want him to have the authority to capitalize on the strengths of the people he does have by being able to assign them where they are most needed within the agency. Such flexibility is not going to prompt agency heads to put their top specialists, on whom they so thoroughly depend, on any reassignment merry-go-rounds.

Second, while we are aware that all supergrades are not "executives," we believe they are all part of the Government's leadership structure. Moreover, the great majority--all but 11%--manage programs or supervise other professionals. We believe the FES should be as inclusive as possible. In fact, one of the major objectives of the FES is to overcome the patch-work and fragmented system that presently exists.

All "exclusion" schemes suffer from two serious flaws: (1) they all require a bureaucracy of people, rules, and paperwork to decide upon and administer the excluding process, and (2) they result in a first class and second class of executives--"in" groups and "out" groups. We do great harm to Government management if we leave additional doors open to create multiple personnel systems for executives. We do not share the apprehension that specialists' careers are going to be hurt by this proposal.

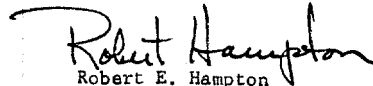
Regarding the present non-quota flexibilities, we are in complete agreement that long term fixed ceilings are detrimental to effective management. But all of the Government's programs need that flexibility. One of the main purposes of the FES is to establish an alternative to the present supergrade ceiling approach. At the same time we wish to establish a system that the President can manage and over which the Congress can exercise oversight. We think the approach should be a conscious and specific correlation among program priorities, dollars, and numbers of executives. This will provide sufficient executive resources to an agency in accord with its needs and priorities, and not starve one aspect of a program while over-staffing another.

Regarding your question on political implications, naturally there is concern that the agreement feature might open the door for political appointees to terminate agreements and appoint their "own." All of our experience indicates, however, that agency heads seek the most qualified executives they can find--and that usually means people already working for the Government. There is considerable attrition today at the supergrade level, but career employees are not replaced en masse by people from outside of Government. Ninety percent of all career positions are filled by long time Government employees.

In addition, the combination of various features of the FES makes it difficult to replace career employees in any great numbers with other than highly qualified replacements. Employees whose agreements are not renewed must be placed at the GS-15 level, and their replacements must be approved by the qualifications board who will review recruiting procedures and qualifications. I think this all argues that most agreements will be renewed, but, in addition, we will have the flexibility to deal in a humane way with those few instances when an executive is no longer making a contribution.

Again, let me reiterate my conviction that the Federal Executive Service is a major breakthrough in the management of executive manpower resources in the Government. It strikes a most reasonable balance among the needs of managers and individuals, and between the roles of the executive branch and the legislative branch. I urge its enactment as soon as possible.

Sincerely yours,


Robert E. Hampton
Chairman

Attachments

Tab 1

Who should be included?

There seems to be a misunderstanding about the primary purpose of the FES. The proposal is not meant to be basically a device for increasing inter-agency mobility. While mobility is a desirable characteristic of the career service, we have not had much interagency mobility at the super-grade level, nor is it realistic to expect much.

The table below shows the sources of people filling career positions since the current Executive Assignment System was put into operation in November 1967 until December 3, 1970.

From Within Agency	82%
From Other Agencies	8
From Outside Government	<u>10</u>
	<u>100%</u>

As is shown, interagency mobility at the executive level is not great. By the time an employee is appointed to the supergrades, generally he is a highly developed professional with a thorough knowledge of the program he is going to manage and the organizations within which he is going to manage the program. Those are the reasons he is usually selected for high position. His mobility, if any, comes earlier in his career.

While there is nothing in the FES to prevent interagency mobility, there is nothing in it that specifically forces it. Only the agency head has the legal authority to hire and assign people. We should not establish any programs which require him to accept or appoint people he does not want.

On the other hand, we want to recognize the importance of some mobility within an agency, even for specialists. Both the individual and the organization profit from the periodic movement of people among similar types of work within the same occupation or between advisor and operating positions.

Thus, we do want to give the agency head the authority to treat his agency as much like a cohesive organization as possible and to enable him to assign his people within that organization to capitalize on their strengths and to build a dynamic leadership structure. Such flexibility is not going to prompt agency heads to put their top specialists on whom they so thoroughly depend on any reassignment merry-go-rounds.

We are aware that all supergrades are not "executives." But they are all part of the Government's leadership structure, and the great majority of them manage programs directly or indirectly in one capacity or another.

A number of criteria for excluding various groups from the FES have been advanced. The most common suggestions are to:

1. Exclude all professionals such as scientists or people engaged in research and development.
2. Exclude all scientists who are individual workers.
3. Exclude all individual workers.

We reviewed the merit of these suggestions against the information we have about the nature of the top structure of the Government proposed for inclusion in the FES, which includes approximately 7,000 GS-16-18 and their equivalents. The results of this analysis provide some very useful insights into the problems involved in attempting to establish separate groups for personnel management purposes at these levels.

- Of the top 7,000 people, 45% are physical scientists or engineers; another 15% are other types of professionals such as lawyers, economists, social scientists; the remaining 40% are specialists such as management analysts, comptrollers, personnel directors, logisticians, etc.
- If this same group is divided on the basis of duties, we find that 75% are program managers that have some measure of responsibility for programs that involve more than supervision of other people. Note that these program managers are generally professionals or specialists who combine their professional skills with management responsibilities.
- Another 15% of the 7,000 are supervisors of other professionals, and only 11% are individual workers. This latter group are not concentrated in a few readily identifiable locations. Instead, they are found in small pockets all over the Government and in many occupations.

It is very clear that the work of the leadership structure of an agency is of necessity intricately interrelated. An agency head cannot make do with a hodge-podge of systems that treat members of this upper group differently with regard to number authorized, pay, status, entry and removal requirements, etc. He needs a system that gives him flexibility in top manpower management in staffing without artificially fragmenting requirements and without the inhibitions and frustrations of trying to make varying systems work in harmony.

Basically, all "exclusion" schemes suffer from two serious flaws: (1) they require a bureaucracy of people, rules, and paperwork to decide upon and administer the excluding process, and (2) they create a first and second class of executives, "in" groups of professional "elites" without serving the primary purpose of getting the public's job done. We would rapidly come back to where we are today with a hodge-podge of exceptions and special privileges.

Tab 2

Impact on the career service?

This is an area in which we, of course, have great concern. Entering professionals are quite concerned about their career opportunities. By this they mean--opportunity to do interesting and useful work, above average facilities and administrative support, and fair and equitable treatment as they compete for advancement. At present, Government service has the image of an upper level "locked in" for life. Young people we have talked to about the FES view it positively--as loosening up upper level employment somewhat and providing them with increased opportunities to reach the most impactful jobs, including some jobs now reserved exclusively for noncareer appointees. We are convinced that the FES may be an attraction to young people to enter the Federal service rather than a discouraging factor.

Our studies show that we should be somewhat concerned about the exceptional mid-career employees who leave Government service because they perceive so little opportunity to rise to the top. We believe they also see the FES as providing greater opportunities--especially for the GS-17 and 18 level jobs.

Tab 3

Transition

It is true that under the transition provisions, we will have two executive manpower systems for a number of years. Actually, there will be more than two, because we can expect some members of each of the present variety of systems to choose to remain in those systems. However, our analysis of this problem indicates that well over half of present executives will choose to enter the Federal Executive Service. We think the younger executives with longer career expectancies will choose the Federal Executive Service because of the opportunities it offers for varied and higher level assignments, and higher pay. Our best estimate is that holdovers from the old systems will, assuming the FES goes into effect in 1972, be negligible in number by as early as 1980 as a result of normal attrition.

While full and immediate implementation is desirable, we feel the overlap of systems is essential to keep faith with the understandings present executives had when they entered the service. This is a small price for ultimately obtaining one unified system.

Tab 4

Non-Quota Positions

We are in complete agreement that long term fixed ceilings on executives are detrimental to effective management. One of the main purposes of the FES is to establish an alternative to the present ceiling approach, but at the same time to establish a system that the executive branch can manage and over which the Congress can exercise appropriate oversight.

The FES does not prescribe a system of rigid controls on the number of executives--scientific or otherwise. On the contrary, through a variety of features the agency head is given a great deal of flexibility to staff his top levels.

- Annually, he has the opportunity to request and receive executive resources in direct relationship to his program plans, his other resources, and his program priority. In contrast to what happens today, the FES does not propose a system that attempts to share permanent scarcity among agencies, but relates executive requirements to individual agency needs.
- The FES also provides that the Civil Service Commission can authorize emergency increases to agencies to meet needs unforeseen at the annual review.
- The FES specifically promotes and permits the flexible assignment of people to meet needs. This kind of flexibility should not be underestimated. Many staffing requirements can be met by putting available people in the right job--increases in authorizations are not always necessary.

We also recognize the growing concern with the increase in non-quota authorizations which do not always seem to be related to overall program growth or priority. The number of non-quota executives has grown at the rate of 33% per year. The increase has been far greater in some agencies than in others. Moreover, non-quota as a percent of quota plus non-quota increased from 24% in 1964 to 34% in 1971. We cannot continue to justify a preferential approach to the physical scientists in contrast to the needs of the social science professionals.

Some of the argument for excluding non-quota is based on the misconception that non-quota supergrades are mostly individual workers. This is not true since 72% are program managers, 17% are supervisors, and 11% are individual workers.

As Government programs rely more and more on scientific expertise for leadership and as Government roles encompass more and more scientific endeavors, the distinctions between the high level scientist doing research for the Government and the high level scientist who manages Government programs dealing with scientific endeavors become more and more blurred.

The present quota/non-quota approach imposes severe constraints on the overall capability of the agency head to staff his executive requirements. The proposed system will give the agency manager, who does have the final program responsibility, far greater flexibility to use his executive resources. As noted, the proposal specifically calls for the planning of executive requirements in relation to the program and other resources. A conscious and specific correlation among program priorities, dollars, and numbers of executives is not only logical, but is vitally necessary for good management. We will be able to provide sufficient executive resources to an agency in accord with its program needs and priorities; and not starve one aspect of a program while over staffing another.

Tab 5

Fall Back to GS-15

We do not foresee the circumstance when a GS-15 vacancy will not exist in those instances when the agreement is not renewed and an executive chooses to accept a GS-15 appointment. The organizational area of opportunity for appointment to a 15 is the total agency--the same jurisdiction managed by the legal hiring authority, not just the branch or division in which the executive works.

It seems reasonable to assume that all of the Cabinet departments, independent agencies, and regulatory agencies will be able to find suitable positions. Governmentwide, 2,600 new GS-15's are appointed each year--that represents replacing 1,500 who leave their positions and the establishment of 1,100 new GS-15 jobs.

Fall Back for Career Appointees from Outside of Government

Appointment to the career service, even at the upper levels, from outside of Government is a long tradition of the Federal service and is what makes it an open rather than a closed "up-through-the-ranks" system. This lateral entry opportunity should be preserved so that in those few instances when the best person for a job is outside the career service, he can be recruited and offered a career opportunity competitive with what he is leaving. This type of employee is truly different from the short termmer who comes in to work on a definite program or project, and from the noncareer executive appointed because of his program philosophy or special relationship to the Administration or a political appointee.

The principle of guaranteeing a full career service is applicable to all persons in the career service regardless of the level of their entry. Thus, if an agreement is not renewed, the executive should be offered economic security by having fall back rights to a GS-15, even though he entered at a high level. Such instances are going to be few. We estimate that only about 10% of career appointees to the FES will be people from outside Government. Further, we expect that only a small number of these will not have their agreements renewed, and then only a portion of those not renewed will be interested in GS-15 appointments.

It should be noted again that only persons who enter the career service of the FES will be granted agreements and have fall back rights to the GS-15 level. Those who are appointed to the non-career portion of the FES, serve at the pleasure of the agency head, are not given employment agreements and have no fall back rights to the GS-15 level.

Tab 6

Political Implications

First of all, the record of changes of Administration is encouraging on this point. New Administrations do not even sweep out the noncareer appointees of the previous Administration in any great number. A year after the present Administration took office, 40% of the previous Administration's Schedule C type supergrades were still in their jobs.

The extent to which a new Administration will fail to renew expiring agreements in order to create vacancies for their own people will be a function of two factors: (1) the pressures they feel to get rid of existing people in order to build sympathetic management teams, and (2) the extent to which the FES allows replacement.

On this latter point, the FES will not allow non-renewal and then appointment of just anybody. All career appointments must meet merit standards and be approved by the Qualifications Boards located in the Civil Service Commission. These boards are designed to assure broad based searches and appointments based on merit. Moreover, most high level Government jobs call for expertise in a profession, program, or organization that can only be developed by Government employment. That is why most appointments are made from the ranks of the immediate organization.

Regarding point 1, the FES provides for assignment flexibilities which will allow a new Administration to restructure its agency management teams and still retain the expertise represented by those working under agreements.

Tab 7

Retirement

The introduction of a management retirement option in the FES is a new feature--but one that is long overdue. The idea that the Government should have some options over retirement is not new. We think such an option for the Government is especially relevant and important at these top levels.

Executives are different from mid-managers or journeyman workers. Our studies show that they stay on the rolls for significant periods past their retirement eligibility. They are the key members of the work force and exert a great influence on program effectiveness. Thus, if they are not effective the program suffers severely.

As part of the FES we have tried to balance the need for management flexibility, the need to offer viable long term Government careers, and the need for enlightened treatment of individuals--especially those individuals who should not remain in the executive levels. To provide this balance we have proposed renewable agreements, fall back and saved pay rights, and special retirement features. In this latter group are the entitlement of the individual to discontinued service or severance benefits if an agreement is not renewed and the option of management to choose to retire those who have 30 years of service at the expiration of an agreement.

Tab 8

Career/Noncareer Ratio

At the present time there is a hodge-podge of Government employees who cannot be considered as "career" employees--they do not make employment with the Government their work career. These include:

- A number in different kinds of jobs which are not under the civil-service system for one reason or another.
- Those serving in jobs which meet the Schedule C criteria (these are called noncareer executive assignments at the supergrade levels). These criteria try to distinguish between positions whose incumbents set policy or are involved in controversial public issues, and those whose functions are more neutral in nature. The noncareer executives are the ones we think of when we talk of the "political" appointees at the GS-16-18 level.
- High level employees who come to the Government to work on projects or tasks of definite length, and then leave.
- The so-called "in-and-outers" who move back and forth among Federal and state governments, industry, and the universities. This group is a significant proportion of the present career group, about 12%.

As we reviewed the present system for establishing noncareer jobs, we concluded that it is not meaningful either as a reflection of what is actually happening, or is it capable of meeting the dynamics of modern Government organizational requirements.

It makes little sense to give those who do not look to careers in the Government permanent retention rights and to treat them generally as if they are a permanent part of the Government work force. This applies both to "short termers" in general as well as to the traditional "political" types.

Even more important is the need to build into the personnel system a recognition of the changing nature of the relationships among Government programs, public policy regarding those programs, and the executives who shape and implement that policy. Policy is not merely partisan, so it does not depend primarily on political persuasion, but is a function of many diverse forces impinging on the Government. Nor is it possible any longer to separate policy development and decision from policy administration in many instances. The two depend on each other and it is becoming rare to find many executives who do one but not the other.

Thus, what is needed is a redefinition of noncareer. We think it important to maintain a sharp distinction between career and noncareer executives. The distinction, however, should not be solely the one we set today.

Accordingly, we are proposing to change the definition of "noncareer" to eliminate the common connotation of "political" as the only reason for noncareer status. We believe the service will be improved by including all those executives we expect to remain in the Federal service only temporarily. Our analysis shows that a 75% career and 25% noncareer service Government-wide will accommodate the need. But we recognize that each agency has different needs as the definition is applied to them, so we allow for agency variances.

The CSC has a long history of experience of reviewing agency needs for supergrades. We know the history of the agency and the record of similar agencies. We will consult with the agency and with the Office of Management and Budget. The ratio authorized will be a function of the nature of the agency program, the kinds of people who normally staff such programs, and the agency's proposed staffing plans.

Tab 9

Job Evaluation and Policy Act of 1970

The proposed FES does not prescribe a centrally imposed classification or job evaluation method, but it does provide that each agency will have a position management system best suited to its programs and type of executive work force. The hallmark of the FES proposal is that it permits each individual agency to manage its executive manpower so as to most effectively meet its special needs.

The other Commissioners and I have given serious consideration to the relationship of the recommendations under the FES and those being considered by the Task Force established under Public Law 91-216. The evolving recommendations of the Task Force for a job evaluation system relating to executive levels are not incompatible with the recommendations of the FES. Certainly, the Civil Service Commission's recommendations to the Congress, as required by Public Law 91-216, will see to it that the job evaluation recommendations are compatible with the FES proposal. It is clear that agencies will want to have a position management system for their own purposes. The recommendations of the Task Force may prove very useful to them.

We believe that the many critical areas of executive manpower that cry for immediate change cannot wait for the completion of the work of the Task Force. Moreover, the Commission believes that the Federal Executive Service proposal is sufficiently self-contained as a total personnel program that it should be considered by the Congress on its own merits.

Tab 10

Executive Inventory Referrals

Career positions are filled from the following sources:

Same Agency	82%
Other Government Agencies	8%
Outside the Government	10%

In most instances, inventory referrals were made for filling career vacancies. Below are the number of referrals and number of names referred for each year since the Executive Assignment System became operational.

<u>Period</u>	<u>No. of Referrals</u>	<u>No. of Names</u>
Nov. 1967 - June 1968	231	1,094
July 1968 - June 1969	292	1,617
July 1969 - June 1970	387	2,273
July 1970 - June 1971	408	2,558

It has not been possible to determine how many of the persons appointed were not known to the agency prior to the referral. It is safe to assume that almost all of those from the same agency would have been known prior to referral. Of the 8% appointed from other agencies, it is safe to assume that many of these were not known.

In any event, the ability to use the inventory to check the quality of people in the Government with reference to the position being filled has proved invaluable.



Organized
April 8, 1929

Organization of Professional Employees
of the U. S. Department of Agriculture

P.O. BOX No. 381 ► WASHINGTON, D. C. 20044 ► PHONE: 347-5959

May 25, 1971

Senator Gale W. McGee
United States Senate
Washington, D. C. 20510

Dear Senator McGee:

We support the concepts included in proposed legislation S. 1682 for those executives in present super grades 16 through 18 and other executive level appointments. Those parts of the legislation that offer qualified professionals an opportunity to enlarge the horizons of his or her career and which would permit qualified and capable career officials to accept top level management positions without jeopardizing their present career status are highly desirable.

We support and want to defend the present classified Civil Service system which provides for employing only those persons who have met certain minimum position standards and have demonstrated abilities adequate to meet position requirements. The Civil Service Commission has done a commendable job in this area and we are therefore opposed to any legislation which would remove these responsibilities from the Civil Service Commission.

The proposed career Federal Executive Service should not be permitted to apply to Civil Service grades GS-15 and below. We recommend that the present classified regulations be maintained for these positions.

There are many scientific members in OPEDA who have specialized in selected items of research or in specific management problems for natural resource areas in either forest, soils, or water. Most of these scientists have devoted their entire professional careers to specific study areas or to specialized types of management. The effectiveness of their contributions to society is dependent upon continuation of their services through their normal working careers. Such activities should not be hampered with periodic contract renewal. We would, therefore, recommend that these scientific positions be excluded, along with Foreign Service type positions, Departments of Medicine and Surgery in the Veterans Administration, the Atomic Energy Commission, postal executives, the FBI, and hearing examiners.

With the above mentioned exceptions, we would subscribe to the ratio of not less than 75 percent career appointments with not more than 25 percent

noncareer appointments in the Federal Executive Service. Many Federal programs are highly sophisticated and require well-trained specialists and experienced professionals to operate them. One of OPEDA's goals is to obtain and keep such qualified professional employees in the Federal service. The proposed legislation S. 1682 does this in part. However, we believe the legislation should be strengthened to insure continuity of employment for qualified professional workers. We would be glad to work with the Committee staff in developing safeguards in the proposed legislation.

Sincerely,

William E. Shaklee
William E. Shaklee
President

